

A G E N D A

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METRO

Agenda

MEETING: METRO COUNCIL REGULAR MEETING
DATE: January 29, 2004
DAY: Thursday
TIME: 2:00 PM
PLACE: Metro Council Chamber

CALL TO ORDER AND ROLL CALL

1. INTRODUCTIONS

2. CITIZEN COMMUNICATIONS

3. CONSENT AGENDA

3.1 Consideration of Minutes for the January 15, 2004 Metro Council Regular Meeting.

**4. PUBLIC HEARING - 2003 URBAN GROWTH MANAGEMENT
FUNCTIONAL PLAN COMPLIANCE REPORT**

5. ORDINANCES – FIRST READING

5.1 **Ordinance 04-1033**, For the Purpose of Amending Metro Code Chapter 3.09 (Local Government Boundary Changes) to Allow Use of the Expedited Process for Changes to the Metro District Boundary and to Clarify Criteria for Boundary Changes, and Declaring an Emergency.

6. RESOLUTIONS

6.1 **Resolution No. 04-3402**, For the Purpose of Granting an Easement to Oregon Department of Transportation for Non-Park Use Through Metro Property Located in Hillsboro at 4800 SW Hillsboro Highway. McLain

6.2 **Resolution No. 04-3407**, For the Purpose of Confirming the Appointments of Rick Sandstrom and Wayne Luscombe to the Metro Central Station Community Enhancement Committee. Burkholder

6.3 **Resolution No. 04-3408**, For the Purpose of Confirming the Reappointment of Leland Stapleton to the Metro Central Station Community Enhancement Committee. Burkholder

6.4 **Resolution No. 04-3415**, For the Purpose of Approving the Intergovernmental Agreement (IGA) with the City of Portland for Operating and Maintaining the Three Bridges and Trail Located in the Sellwood Section of the Springwater Corridor. Newman

7. CONTRACT REVIEW BOARD

7.1 **Resolution No. 04-3412**, For the Purpose of Authorizing an Exemption From Competitive Bidding Requirements and Authorizing Issuance of RFP #04-1091-SWR For the Operation of the Metro South and/or Metro Central Transfer Stations. Park

8. CHIEF OPERATING OFFICER COMMUNICATION

9. COUNCILOR COMMUNICATION

ADJOURN

Television schedule for Jan. 29, 2003 Metro Council meeting

	1/29 Thursday	1/30 Friday	1/31 Saturday	2/1 Sunday	2/2 Monday	2/3 Tuesday	2/4 Wednesday
Clackamas, Multnomah and Washington counties Vancouver, Wash. Channel 11 Community Access Network www.yourtvvtv.org (503) 629-8534	Live at 2 p.m.						
Gresham Channel 30 MCTV www.mctv.org (503) 491-7636					2 p.m.		
Lake Oswego, Washington County Channel 30 TDTV www.yourtvvtv.org (503) 629-8534			7 p.m.	7 p.m.		6 a.m.	4 p.m.
Oregon City, Gladstone Channel 28 Willamette Falls Television www.wftvaccess.com (503) 650-0275	11:30 a.m.	12:30 p.m.	12:30 p.m.	12:30 p.m.	12:30 p.m.	11:30 a.m.	12:30 p.m.
Portland Channel 30 (CityNet 30) Portland Community Media www.pcatv.org (503) 288-1515				8:30 p.m.	2 p.m.		
West Linn Channel 30 Willamette Falls Television www.wftvaccess.com (503) 650-0275	11:30 a.m.	12:00 p.m.	12:30 p.m.	12:30 p.m.	12:30 p.m.	11:30 a.m.	12:30 p.m.

PLEASE NOTE: Show times are tentative and in some cases the entire meeting may not be shown due to length. Call or check your community access station web site to confirm program times.

Agenda items may not be considered in the exact order. For questions about the agenda, call Clerk of the Council, Chris Billington, 797-1542. Public Hearings are held on all ordinances second read and on resolutions upon request of the public. Documents for the record must be submitted to the Clerk of the Council to be considered included in the decision record. Documents can be submitted by email, fax or mail or in person to the Clerk of the Council. For assistance per the American Disabilities Act (ADA), dial TDD 797-1804 or 797-1540 (Council Office).

Agenda Item Number 3.1

Consideration of Minutes of the January 15, 2004 Regular Council meetings.

Metro Council Meeting
Thursday, January 29, 2004
Metro Council Chamber

**2003 URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN
COMPLIANCE REPORT**

Public Hearing

Metro Council Meeting
Thursday, January 29, 2004
Metro Council Chamber



METRO

Date: January 20, 2004

To: David Bragdon, Council President
Metro Council

From: Brenda Bernards, Senior Regional Planner

Re: *Public Hearing for the 2003 Urban Growth Management Functional Plan Compliance Report*

Item 3, of the January 29, 2004 Metro Council, is the Public Hearing for the 2003 Urban Growth Management Functional Plan (Functional Plan) Compliance Report. The report, which provided the status of compliance to November 2003, was submitted to you at your December 16, 2003 work session. On December 23, 2003, the City of Durham adopted minimum density standards. An updated compliance matrix is attached to this memo.

The Cities of Beaverton, Lake Oswego, Maywood Park and Portland have submitted the second Progress Report required under Title 7: Affordable Housing. Staff is in the process of reviewing the reports.

The report and a notice of the January 30, 2004 public hearing was sent to the Planning Directors of the local jurisdictions and to the citizens who requested a copy. The notice outlined the following:

- Metro Code Section 3.07.880 requirement for the Metro staff to submit to the Metro Council a report on the status of compliance with the Functional Plan.
- The requirement for the Metro Council to set a date for a public hearing in order to receive testimony on the report and to determine whether cities and counties have completed their work to comply with the requirements of the Functional Plan.
- Following the hearing, the Metro Council will determine the status of each city and county's effort to meet each Functional Plan requirement.
- Once an order has been issued, and there has been no successful appeal to the Land Use Board of Appeals, the Metro Council's decision is final.

Additionally, the 2003 Annual Compliance Report is posted on the Metro website. An email was sent to Neighborhood Committees and the Land Use Chairs of the Neighborhood Committees advising them that the report was available on the Metro website, and provided them with a link to the report.

BB
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Attachment

Table A: Status of Compliance with the Functional Plan – January 21, 2004

Functional Plan Title	No. of Applicable Jurisdictions	No. of Jurisdictions in Compliance	Percentage Complete
Title 1 – capacity analysis	27	26 (analysis completed)	
Title 1 – map of design types	27	27	
Title 1 – minimum densities	27	26	
Title 1 – partitioning standards	27	27	
Title 1 – accessory dwelling units	27	26	
Title 1 – accessory dwelling units in centers	21		
Title 1 – reporting	27	0	
Total Title 1	162		
Title 2 – minimum/maximum standards	27	27	100%
Title 2 – variance process	27	27	100%
Title 2 – blended ratios	27	27	100%
Total Title 2	81	81	100%
Title 3 – floodplain standards	25	25	100%
Title 3 – water quality standards	26	23	88%
Title 4 – erosion control standards	27	27	100%
Total Title 3	78	75	96%
Title 4 – protection of RSIA's	unknown		
Title 4 – protection of Industrial Areas	20		
Title 4 – protection of Employment Areas	22	22	100%
Total Title 4			
Title 5 – rural reserves	2	2	100%
Title 5 – green corridors	10	9	90%
Title 5 - Total	12	11	92%
Title 6 – Develop a Strategy to Enhance Centers	21		
Title 6 – Special Transportation Areas	21		
Title 6 – Siting Government Offices	21		
Title 6 – Reporting on Centers Progress	21		
Total Title 6	84		
Title 7 – 1st progress report	27	17 (received)	
Title 7 – 2nd progress report	27 – due December 31, 2003	13 (received)	
Title 7 – 3rd progress report	27 – due June 30, 2003	0	
Total Title 7	81	(not available)	(not available)
Total			

Status of Compliance with the Functional Plan – December 31, 2003

Percentage of Completeness by Title 1-6

Functional Plan Title	No. of Applicable Jurisdictions	No. of Jurisdictions in Compliance	Percentage Complete
Title 1 – minimum densities	27	26	96%
Title 1 – partitioning standards	27	27	100%
Title 1 – accessory dwelling units	27	26	96%
Title 1 – map of design types	27	27	100%
Title 1 – capacity analysis	27	26 (analysis completed)	96%
Total Title 1	135	132	98%
Title 2 – minimum/maximum standards	27	27	100%
Title 2 – variance process	27	27	100%
Title 2 – blended ratios	27	27	100%
Total Title 2	81	81	100%
Title 3 – floodplain standards	25	25	100%
Title 3 – water quality standards	26	23	88%
Title 4 – erosion control standards	27	27	100%
Total Title 3	78	75	96%
Title 4 – retail in Industrial Areas	20	20	100%
Title 4 – retail in Employment Areas	22	22	100%
Total Title 4	42	42	100%
Title 5 – rural reserves	2	2	100%
Title 5 – green corridors	10	9	90%
Title 5 - Total	12	11	92%
Title 6 – street design	27	27	100%
Title 6 – street connectivity	27	27	100%
Total Title 6	54	54	100%
Total: Completeness Titles 1-6	402	395	98%

This table shows compliance for Titles 1 through 6, pre-2002 amendments to the Functional Plan.

Status of Compliance by Jurisdiction

Title 1: Housing and Employment Accommodation

	2. capacity analysis	3. map of design types	4.A minimum density	4.B partitioning standards	4.C accessory dwelling units	4.C accessory dwelling units in centers	2 & 4.D Reporting
Beaverton	in compliance	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05
Cornelius	in compliance	in compliance	in compliance	in compliance	in compliance	N/A	07/07/05
Durham	in compliance	in compliance	in compliance	in compliance	in compliance	N/A	07/07/05
Fairview	in compliance	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05
Forest Grove	in compliance	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05
Gladstone	in compliance	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05
Gresham	in compliance	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05
Happy Valley	in compliance	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05
Hillsboro	in compliance	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05
Johnson City	in compliance	in compliance	in compliance	in compliance	in compliance	N/A	07/07/05
King City	in compliance	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05
Lake Oswego	in compliance	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05
Maywood Park	in compliance	in compliance	in compliance	in compliance	in compliance	N/A	07/07/05
Milwaukie	in compliance	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05
Oregon City	in compliance	in compliance	Planning Comm.	in compliance	Planning Comm.	07/07/05	07/07/05
Portland	in compliance	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05
Rivergrove	in compliance	in compliance	in compliance	in compliance	in compliance	N/A	07/07/05
Sherwood	in compliance	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05
Tigard	in compliance	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05
Troutdale	in compliance	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05
Tualatin	in compliance	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05
West Linn	in compliance	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05
Wilsonville	In progress	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05
Wood Village	in compliance	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05
Clackamas C.	in compliance	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05
Multnomah C.	in compliance	in compliance	in compliance	in compliance	in compliance	N/A	07/07/05
Washington C.	in compliance	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05

Title 2: Regional Parking Policy			
	2.A.1&2 Minimum/Maximum standards	2.A.3 Variance Process	2.B Blended Ratios
Beaverton	in compliance	in compliance	in compliance
Cornelius	in compliance	in compliance	in compliance
Durham	In compliance	In compliance	In compliance
Fairview	in compliance	in compliance	in compliance
Forest Grove	in compliance	in compliance	in compliance
Gladstone	in compliance	in compliance	in compliance
Gresham	in compliance	in compliance	in compliance
Happy Valley	in compliance	in compliance	in compliance
Hillsboro	in compliance	in compliance	in compliance
Johnson City	in compliance	in compliance	in compliance
King City	in compliance	in compliance	in compliance
Lake Oswego	in compliance	in compliance	in compliance
Maywood Park	in compliance	in compliance	in compliance
Milwaukie	in compliance	in compliance	in compliance
Oregon City	in compliance	in compliance	in compliance
Portland	in compliance	in compliance	in compliance
Rivergrove	in compliance	in compliance	in compliance
Sherwood	in compliance	in compliance	in compliance
Tigard	in compliance	in compliance	in compliance
Troutdale	in compliance	in compliance	in compliance
Tualatin	in compliance	in compliance	in compliance
West Linn	in compliance	in compliance	in compliance
Wilsonville	in compliance	in compliance	in compliance
Wood Village	in compliance	in compliance	in compliance
Clackamas County	in compliance	in compliance	in compliance
Multnomah County	in compliance	in compliance	in compliance
Washington County	in compliance	in compliance	in compliance

Title 3: Water Quality, Flood Mgmt and Fish and Wildlife Conservation			
	4.A Flood Mgmt Performance Standards	4.B Water Quality Performance	4.C Erosion and Sediment Control
Beaverton	in compliance	in compliance	in compliance
Cornelius	in compliance	in compliance	in compliance
Durham	in compliance	in compliance	in compliance
Fairview	in compliance	in compliance	in compliance
Forest Grove	in compliance	in compliance	in compliance
Gladstone	in compliance	in compliance	in compliance
Gresham	in compliance	in compliance	in compliance
Happy Valley	in compliance	in compliance	in compliance
Hillsboro	in compliance	in compliance	in compliance
Johnson City	in compliance	in compliance	in compliance
King City	in compliance	in compliance	in compliance
Lake Oswego	in compliance	In progress	in compliance
Maywood Park	N/A	N/A	in compliance
Milwaukie	in compliance	in compliance	in compliance
Oregon City	in compliance	in compliance	in compliance
Portland	in compliance	in compliance	in compliance
Rivergrove	in compliance	in compliance	in compliance
Sherwood	in compliance	in compliance	in compliance
Tigard	in compliance	in compliance	in compliance
Troutdale	in compliance	in compliance	in compliance
Tualatin	in compliance	in compliance	in compliance
West Linn	in compliance	In progress	in compliance
Wilsonville	in compliance	in compliance	in compliance
Wood Village	N/A	in compliance	in compliance
Clackamas County	in compliance	Awaiting Ordinance	in compliance
Multnomah County	in compliance	in compliance	in compliance
Washington County	in compliance	in compliance	in compliance

Title 4: Retail in Employment and Industrial Areas

	2. Protection of Regionally Significant Industrial Areas	3. Protection of Industrial Areas	4. Protection of Employment Areas
Beaverton		07/07/05	in compliance
Cornelius		07/07/05	in compliance
Durham		07/07/05	in compliance
Fairview		07/07/05	in compliance
Forest Grove		07/07/05	in compliance
Gladstone		N/A	in compliance
Gresham		07/07/05	in compliance
Happy Valley		N/A	N/A
Hillsboro		07/07/05	in compliance
Johnson City		N/A	N/A
King City		N/A	N/A
Lake Oswego		07/07/05	in compliance
Maywood Park		N/A	N/A
Milwaukie		07/07/05	in compliance
Oregon City		07/07/05	in compliance
Portland		07/07/05	in compliance
Rivergrove		N/A	N/A
Sherwood		07/07/05	in compliance
Tigard		07/07/05	in compliance
Troutdale		07/07/05	in compliance
Tualatin		07/07/05	in compliance
West Linn		N/A	in compliance
Wilsonville		07/07/05	in compliance
Wood Village		07/07/05	in compliance
Clackamas County		07/07/05	in compliance
Multnomah County		07/07/05	in compliance
Washington County		07/07/05	in compliance

Title 5: Neighbor Cities and Rural Reserves	
2. Rural Reserves	2. Green Corridors
N/A	N/A
N/A	N/A
N/A	N/A
N/A	N/A
N/A	N/A
N/A	N/A
N/A	in compliance
N/A	N/A
N/A	in compliance
N/A	N/A
N/A	N/A
N/A	N/A
N/A	N/A
N/A	N/A
N/A	Planning Commission
N/A	N/A
N/A	N/A
N/A	in compliance
N/A	N/A
N/A	N/A
N/A	in compliance
N/A	in compliance
N/A	in compliance
N/A	N/A
in compliance	in compliance
N/A	in compliance
in compliance	in compliance

Title 6: Central City, Regional Centers, Town Centers and Station Communities				
	2.A Develop a Strategy to Enhance Centers	3. Special Transportation Areas	4. Siting Government Offices	5. Reporting on Centers Progress
Beaverton	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
Cornelius	N/A	N/A	N/A	N/A
Durham	N/A	N/A	N/A	N/A
Fairview	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
Forest Grove	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
Gladstone	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
Gresham	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
Happy Valley	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
Hillsboro	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
Johnson City	N/A	N/A	N/A	N/A
King City	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
Lake Oswego	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
Maywood Park	N/A	N/A	N/A	N/A
Milwaukie	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
Oregon City	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
Portland	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
Rivergrove	N/A	N/A	N/A	N/A
Sherwood	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
Tigard	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
Troutdale	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
Tualatin	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
West Linn	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
Wilsonville	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
Wood Village	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
Clackamas County	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
Multnomah County	N/A	N/A	N/A	N/A
Washington County	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05

Title 7: Affordable Housing					
	First Progress Report – 2002¹			Second Progress Report – 2003 ²	Third Progress Report – 2004
	Report Received	15 Strategies Addressed	Consideration by Elected Body		
Beaverton	Received	No	No	Report Received	
Cornelius					
Durham	Received	No	No		
Fairview	Received		Yes	Report Received	
Forest Grove	Received	No	Yes		
Gladstone					
Gresham	Received	No	Yes	Report Received	
Happy Valley	Received	No	No		
Hillsboro	Received	No	Yes		
Johnson City					
King City				Report Received	
Lake Oswego				Report Received	
Maywood Park	Received ³			Report Received	
Milwaukie					
Oregon City					
Portland	Received	No	No	Report Received	
Rivergrove					
Sherwood					
Tigard	Received	No	Yes	Report Received	
Troutdale	Received	No	Yes	Report Received	
Tualatin	Received	No	No		
West Linn	Received	No	Yes	Report Received	
Wilsonville					
Wood Village	Received	No	No	Report Received	
Clackamas County.	Received	No	No		
Multnomah County.	Received	No	No	Report Received	
Washington County	Received	No	Yes	Report Received	

¹ – January 31, 2002 is the deadline for the first year progress report of Title 7 (Affordable Housing) of the Urban Growth Management Functional Plan amended by the Metro Council in June 2003 (Ordinance No. 03-1005A).

² – December 31, 2003 is the deadline for the second year progress report of Title 7 (Affordable Housing) of the Urban Growth Management Functional Plan amended by the Metro Council in June 2003 (Ordinance No. 03-1005A).

³ – Maywood Park's Rreport, received December 2004, has not been evaluated for compliance

M E M O R A N D U M



Date: December 10, 2003
To: David Bragdon, Council President
Metro Council
From: Michael Jordan, Chief Operating Officer

Re: 2003 Urban Growth Management Functional Plan Compliance Report

I am pleased to submit the 2003 Urban Growth Management Functional Plan Compliance Report. The Report includes the status of the local jurisdictions' compliance with Titles 1 through 7 of the Urban Growth Management Functional Plan (Functional Plan).

- Title 1: Requirements for Housing and Employment Accommodation
- Title 2: Regional Parking Policy
- Title 3: Water Quality, Flood Management and Fish and Wildlife Conservation
- Title 4: Retail in Employment and Industrial Areas
- Title 5: Neighbor Cities and Rural Reserves
- Title 6: Central City, Regional Centers, Town Centers and Station Communities
(formerly Regional Accessibility)
- Title 7: Affordable Housing

The requirements for the Report are found in Metro Code Section 3.07.880. A copy of this section of the Metro Code is attached.

PROCESS FOR THE COMPLIANCE REPORT AND ORDER

As outlined in Metro Code Section 3.07.880.B, upon receipt of the compliance report, the Metro Council shall set a date for a public hearing in order to receive testimony on the report and to determine whether a city or county has complied with the requirements of the Functional Plan. A notice of the hearing will be sent to the cities and counties, the Department of Land Conservation and Development and to anyone who has requested notification of the hearing. Included in the notification will be a statement that the Metro Council does not have jurisdiction to determine that actions taken by a city or county that were deemed to comply, no longer comply with a requirement of the Functional Plan. Following the hearing, the Metro Council will enter an order that determines with which Functional Plan requirements each city and county complies. Once an order has been issued, and there has been no successful appeal to the Land Use Board of Appeals, the Metro Council's decision is final. As part of the notice of the hearing, a statement that prior orders cannot be reconsidered will be included.

Enclosure

TITLE 8 COMPLIANCE PROCEDURES

3.07.880 Compliance Report and Order

- A. The Executive Officer shall submit a report to the Metro Council by December 31 of each calendar year on compliance by cities and counties with the Urban Growth Management Functional Plan. The report shall include an accounting of compliance with each requirement of the Functional Plan by each city and county in the district. The report shall recommend action that would bring a city or county into compliance with the Functional Plan requirement and shall advise the city or county whether it may seek an extension pursuant to section 3.07.850 or an exception pursuant to section 3.07.860. The report shall also include an evaluation of the implementation of this chapter and its effectiveness in helping achieve the 2040 Growth Concept.
- B. Upon receipt of the compliance report, the Metro Council shall set a public hearing for the purpose of receiving testimony on the report and determining whether a city or county has complied with the requirements of the Functional Plan. The Executive Officer shall notify all cities and counties, the Department of Land Conservation and Development and any person who request notification of the hearing of the date, time and place of the hearing. The notification shall state that the Metro Council does not have jurisdiction (1) to determine whether previous amendments of comprehensive plans or land use regulations made by a city or county comply with Functional Plan requirements if those amendments already comply pursuant to subsections F and G of Section 3.07.810 or (2) to reconsider a determination in a prior order issued pursuant to subsection C that a city or county complies with a requirement of the Functional Plan. Any person may testify, orally or in writing, at the public hearing.
- C. Following the public hearing, the Metro Council shall enter an order that determines with which Functional Plan requirements each city and county complies. The order shall be based upon the Executive Officer's report submitted pursuant to subsection A and upon testimony at the public hearing pursuant to subsection B, with which Functional Plan requirements each city and county complies. The order may rely upon the report for its findings of fact and conclusions of compliance with a Functional Plan requirement. If the Metro Council receives testimony during its public hearing that takes exception to the report on the question of compliance, the order shall include supplemental findings and conclusions to address the testimony. The Executive Officer shall send a copy of its order to cities and counties and any person who testifies, orally or in writing, at the public hearing.

**URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN
ANNUAL COMPLIANCE REPORT
December 1, 2003**

INTRODUCTION

The Urban Growth Management Functional Plan (Functional Plan) came into effect in February 1997. Jurisdictions had two years to comply with the requirements contained in Title 1: Requirements for Housing and Employment Accommodation, Title 2: Regional Parking Policy, Title 4: Industrial and Employment Areas, Title 5: Neighbor Cities and Rural Reserves and Title 6: Regional Connectivity. Title 3: Water Quality, Flood Management came into effect in June 1998 and compliance was required by January 2000. Not all jurisdictions were able to amend their comprehensive plans and implementing ordinances by these dates. Time extensions were granted by the Metro Council to a number of jurisdictions to complete their compliance efforts.

Title 7: Affordable Housing came into effect in January 2001 and jurisdictions are required to submit three separate Progress Reports due on January 31, 2002, December 31, 2003 and June 30, 2004.

With the adoption of Ordinance 02-969B in December 2002, the Metro Council adopted a number of revisions to the Functional Plan, including a new Title 6: Central City, Regional Centers, Town Centers and Station Communities. These revisions are identified in this 2003 Annual Report.

This report, required by Metro Code 3.07.880, outlines the status of each jurisdiction in their compliance efforts with Titles 1 through 7 of the Functional Plan.

CONTENTS OF THE REPORT

Metro Code 3.07.880.A requires that this report include the following:

- An accounting of compliance with each requirement of the functional plan by each city and county in the district.
- A recommendation for action that would bring a city or county into compliance with the functional plan requirement and advise to the city or county whether it may seek an extension pursuant to section 3.07.850 or an exception pursuant to section 3.07.860.
- An evaluation of the implementation of the Functional Plan and its effectiveness in helping achieve the 2040 Growth Concept.

The accounting of compliance is presented in two ways. First, the compliance of each jurisdiction is discussed individually. Second, a compliance matrix, Table A, has been prepared which contains a summary of compliance by Functional Plan Title. The matrix includes the summary of compliance for pre-2002 Functional Plan amendments to Titles 1, 4 and 6 and post-2002 Functional Plan amendments to Titles 1, 4, 6, and 7.

The 2003 Compliance Report is the second completed under Metro Code 3.07.880. This report does not repeat the details of the elements of the Functional Plan already deemed to be in compliance identified in the 2002 Compliance Order. This report notes

the compliance since the adoption of the 2002 Compliance Order and any outstanding items.

GENERAL COMPLIANCE NOTES

This report details the compliance status of the jurisdictions from January 2003 through November 2003.

Ordinance No. 02-969B, adopted by the Metro Council in December 2002, contained amendments to Title 1, 4 and 6 of the Functional Plan. A number of these amendments require the jurisdictions to undertake actions to adopt regulations to comply by July 7, 2005. In addition, amendments were made to the reporting requirements of Title 7 in June 2003.

Title 1: Requirements for Housing and Employment Accommodation

Two reporting requirements were added to Title 1. Jurisdictions are required to report annually on changes in capacity and biennially on the actual density of new residential development.

Title 4: Industrial and Employment Areas

Title 4 was rewritten and a new design type, Regionally Significant Industrial Areas (RSIAs) was added. The amendments to protections of Employment Areas were minor and did not change the status of compliance. Retail limitations in Industrial Areas were amended to exclude new uses greater than 20,000 square feet and occupying more than 10 percent of the net developable portion of the Industrial Area. In the RSIAs retail and other non-industrial uses are restricted and there are limits on the division of larger industrial parcels.

Title 6: Central City, Regional Centers, Town Centers and Station Communities

Under the old Title 6: Regional Accessibility, the jurisdictions were required to meet Metro Code Sections 3.07.620 (Regional Street Design Guidelines) and 3.07.630 (Design Standards for Street Connectivity) under Title 6. With the adoption of the Regional Transportation Plan (RTP) in August 2000, the requirements of Title 6 were moved to the RTP. All jurisdictions have complied with these two sections and all future references will be to the new Title 6.

The new Title 6 requires the jurisdictions to work with Metro to develop a strategy to enhance the Centers, encourage the siting of government offices in Centers and discourage them outside of Centers and biannually report on progress of the Centers.

Title 7: Affordable Housing

The 2002 Annual Compliance Report dealt with Title 7 compliance separate from Titles 1 through 6. This was due to a number of issues unique to Title 7 including:

- Clarification was needed on who at the local level should approve the progress report required by Title 7.
- Clarification was needed concerning the evaluation of the reported related policies in a comprehensive plan.
- Clarification was needed on what was meant to "consider" amendments of comprehensive plan and implementing ordinances to include strategies such as land use tools.

Staff was directed to propose amendments to Title 7 to clarify these points. At its meeting of May 28, 2003, the Metro Policy Advisory Committee recommended amendments to provide clarification and at its meeting of June 26, 2003, the Metro Council adopted Ordinance No. 03-1005 amending Title 7. Staff is currently re-evaluating the first year (2002) and second year (2003) reports that had been submitted by local governments based on the guideline provided in the amended Title 7.

The amendment also changed the deadlines contained in Metro Code 3.07.740. for local governments to submit their annual reports. The reporting dates have been amended as follows:

- The first year (2002) reporting deadline to January 31, 2002 so as to keep the changes to second (2003) and third (2004) reporting deadlines uniform.
- The second year (2003) reporting deadline to December 31, 2003, and specified that local jurisdictions should explain the tools and strategies adopted and implemented or not adopted and not implemented.
- The third year (2004) reporting deadline to June 30, 2004, and specified that jurisdictions should explain the remaining actions they have taken since submittal of the previous reports.

The first Progress Report required the jurisdictions to consider 15 strategies of adoption into local plans and codes. Although 16 jurisdictions have submitted the first Progress Report, no one jurisdiction has considered all 15 strategies. The amendments to Title 7 clarified that “consider” means consideration by the elected body of the jurisdiction. In eight of the Progress Reports received, the strategies considered to date were done so by the elected body of the jurisdiction.

As the 2003 Annual Compliance Report includes Functional Plan compliance to November 2003, the status of second year Progress Report due on December 31, 2003 is not included in this report.

Title 8 – Compliance Deadlines

With the adoption of Ordinance 02-925E, Metro is required to provide the local jurisdictions with the deadlines for compliance with the requirements of the Functional Plan. The schedule of compliance dates is attached to this report as Table B.

Outstanding Compliance Elements by Title

Title 1: Durham and Oregon City have not adopted minimum densities. Oregon City has not adopted accessory dwelling units. Wilsonville has not provided a capacity analysis.

Title 3: Lake Oswego, West Linn, Clackamas County have not fully complied with the Water Quality Performance Standards.

Title 5: Oregon City has not adopted a policy relating to Green Corridors.

Title 7: At this time there are eleven jurisdictions that have not submitted their First Progress Report: Cornelius, Gladstone, Johnson City, King City, Lake Oswego, Maywood Park, Milwaukie, Oregon City, Rivergrove, Sherwood and Wilsonville. No jurisdiction has considered all 15 strategies for adoption and in only 8 jurisdictions, the strategies considered were done so by the elected body. A second report, “Updated Metro Evaluation of Local Government Title 7 (Affordable Housing) Compliance Report” is being prepared in response to the June 2003 amendments to Title 7. It will provide details of the requirements of the amended Title 7 and provide a status report of local compliance.

SUMMARY OF COMPLIANCE BY JURISDICTION

The jurisdictions were required to amend their Comprehensive Plans and implementing ordinances to comply with many of the requirements of the Functional Plan.

The City of Beaverton: The City is up-to-date on its compliance for Titles 1 through 6.
Outstanding Items: Title 7: consideration of 15 strategies by City Council.

The City of Cornelius: The City is up-to-date on its compliance for Titles 1 through 6. Cornelius has not submitted the first Progress Report required by Title 7.
Outstanding Items: Title 7: First Progress Report, consideration of 15 strategies by the City Council.

The City of Durham: The City is up-to-date on its compliance for Titles 1 through 6 apart from adopting minimum densities. The City Council is holding hearings on this matter. Durham adopted the Title 2 parking standards in February 2003.
Outstanding Items: Minimum Densities, Title 7: consideration of 15 strategies by City Council.

The City of Fairview: The City is up-to-date on its compliance for Titles 1 through 6.
Outstanding Items: Title 7: consideration of remaining strategies.

The City of Forest Grove: The City is up-to-date on its compliance for Titles 1 through 6.
Outstanding Items: Title 7: consideration of remaining strategies.

The City of Gladstone: The City is up-to-date on its compliance for Titles 1 through 6. Gladstone has not submitted the first Progress Report required by Title 7.
Outstanding Items: Title 7, First Progress Report, consideration of 15 strategies by the City Council.

The City of Gresham: The City is up-to-date on its compliance for Titles 1 through 6.
Outstanding Items: Title 7: consideration of remaining strategies.

The City of Happy Valley: The City is up-to-date on its compliance for Titles 1 through 6.
Outstanding Items: Title 7: consideration of 15 strategies by City Council.

The City of Hillsboro: The City is up-to-date on its compliance for Titles 1 through 6.
Outstanding Items: Title 7: consideration of remaining strategies.

The City of Johnson City: The City is up-to-date on its compliance for Titles 1 through 6. Johnson City has not submitted the first Progress Report required by Title 7.
Outstanding Items: Title 7, First Progress Report, consideration of 15 strategies by the City Council.

King City: The City is up-to-date on its compliance. King City has sent the second Progress Report required by Title 7 but not the first.
Outstanding Items: Title 7, First Progress Report, consideration of 15 strategies by the City Council.

City of Lake Oswego: The City is up-to-date with its compliance for compliance with Titles 1 through 6 apart from meeting the requirements of the Water Quality Resource Area performance standards. City staff is drafting code to meet the Title 3 requirements at this time and anticipate bringing it to the Planning Commission in February 2004. Lake Oswego has not submitted the first Progress Report required by Title 7.

Outstanding Items: Water Quality Resource Areas Performance Standards, Title 7: First Progress Report, consideration of 15 strategies by the City Council.

City of Maywood Park: The City is up-to-date on its compliance for Titles 1 through 6. Maywood Park has not submitted the first Progress Report required by Title 7.

Outstanding Items: Title 7, First Progress Report: consideration of 15 strategies by the City Council.

The City of Milwaukie: The City is up-to-date on its compliance for Titles 1 through 6. Milwaukie has not submitted the first Progress Report required by Title 7.

Outstanding Items: Title 7: First Progress Report: consideration of 15 strategies by the City Council.

City of Oregon City: The City is up-to-date with its compliance for Titles 1 through 6 apart from adopting minimum densities, accessory dwelling units and the Title 5 Green Corridor Policy. The Code and Policy to come into compliance with Titles 1 and 5 have been written and are currently before the Planning Commission. The City anticipates adoption in February 2004. Oregon City has not submitted the first Progress Report required by Title 7.

Outstanding Items: Minimum Densities, Accessory Dwelling Units, Title 5 Green Corridor policy, Title 7: First Progress Report, consideration of 15 strategies by the City Commission.

City of Portland: The City is up-to-date on its compliance for Titles 1 through 6.

Outstanding Items: Title 7: consideration of 15 strategies by City Council.

City of Rivergrove: The City is up-to-date on its compliance for Titles 1 through 6. Rivergrove has not submitted the first Progress Report required by Title 7.

Outstanding Items: Title 7: First Progress Report consideration of 15 strategies by the City Council.

City of Sherwood: The City is up-to-date on its compliance for Titles 1 through 6. Sherwood has not submitted the first Progress Report required by Title 7.

Outstanding Items: Title 7: First Progress Report, consideration of 15 strategies by the City Council.

City of Tigard: The City is up-to-date on its compliance for Titles 1 through 6.

Outstanding Items: Title 7: consideration of remaining strategies.

City of Troutdale: The City is up-to-date on its compliance for Titles 1 through 6.

Outstanding Items: Title 7: consideration of remaining strategies.

City of Tualatin: The City is up-to-date on its compliance.

Outstanding Items: Title 7: consideration of 15 strategies by City Council.

City of West Linn: The City is up-to-date on its compliance for Titles 1 through 6 apart from meeting the requirements of the Water Quality Resource Area performance standards. The City is in the process of drafting code amendments and anticipates holding public hearings in February 2004. West Linn experienced delays with the Division of State Lands approval of its wetlands maps.

Outstanding Items: Water Quality Resource Areas Performance Standards, Title 7: consideration of remaining strategies.

City of Wilsonville: The City is up-to-date with its compliance apart from providing a capacity analysis. Wilsonville adopted the Regional Street designs standards in June 2003. The City is currently working with Metro staff on its capacity analysis. Wilsonville has not submitted the first Progress Report required by Title 7.

Outstanding Items: Capacity Analysis, Title 7: First Progress report, consideration of 15 strategies by the City Council.

City of Wood Village: The City is up-to-date on its compliance for Titles 1 through 6.

Outstanding Items: Title 7: consideration of 15 strategies by the City Council.

Clackamas County: The County is up-to-date with its compliance apart from the meeting the requirements of the Water Quality Resource Area performance standards for the Oak Lodge Sanitary District portion of the County. The County Commission did not amend the standards for this area and took the position that the County was in substantial compliance. Metro staff does not agree with this position and have informed the County that it would need to seek an exception. The County's decision was made in March 2003 but the County Commission has not adopted the ordinance, the County Legal Department has not prepared it, so Metro has not been able to formally respond to the County's position. The County has not asked the Metro Council for an exception to the requirements of Title 3.

Outstanding Items: Water Quality Resource Areas Performance Standards for the Lake Grove portion of the County, Title 7: consideration of 15 strategies by the County Board.

Multnomah County: The County is up-to-date on its compliance for Titles 1 through 6.

Outstanding Items: Title 7: consideration of 15 strategies by the County Board.

Washington County: The County is up-to-date on its compliance for Titles 1 through 6.

Outstanding Items: Title 7: consideration of the remaining strategies.

RECOMMENDATIONS FOR ACTION TO BRING JURISDICTIONS INTO COMPLIANCE

Titles 1 through 6

There are six jurisdictions that have not yet met all of the requirements of Titles 1 through 6. These include the cities of Durham, Lake Oswego, Oregon City, West Linn, Wilsonville and Clackamas County. The five cities are working on their compliance requirements and all anticipate to have completed their work or be in final hearings early in the new year. Metro staff will continue to work with these jurisdictions as the compliance work is completed.

Clackamas County took the position in March 2003 that it was in substantial compliance with the Water Quality Resource performance measures of Title 3. The Metro staff did not concur with this position. The County has not formally taken this position, as the

necessary ordinances have not been prepared and Metro has not been able to formally respond. The County has not requested an exception to Title 3.

Title 7

Sixteen jurisdictions have submitted their first Progress Report. A second report, "Updated Metro Evaluation of Local Government Title 7 (Affordable Housing) Compliance Report" is being prepared in response to the June 2003 amendments to Title 7. It will provide details of the requirements of the amended Title 7 and provide a status report of local compliance. This report will be distributed to the jurisdictions with the 2003 Annual Compliance Report.

EVALUATION OF THE IMPLEMENTATION OF THE FUNCTIONAL PLAN

This is the second Compliance Report required by Metro Code 3.07.880. To date, the region has reached a compliance rate of 98 percent for the elements due December 2002.

Compliance with the Functional Plan contributes toward achievement of the 2040 Growth Concept and efficient use of land within the region. Evaluation of compliance is a prerequisite to the region's response to the mandates of state law in ORS 197.296 and 197.299. Those statutes require Metro to determine the capacity of the urban growth boundary to accommodate housing and employment every five years and to take measures to ensure that they can be accommodated. Metro recently completed this capacity analysis as part of its periodic review program.

Part of the capacity analysis is to gauge actual development patterns in the years since the last periodic review. If the patterns (density, housing mix, etc.) of the past, when projected into the future, are not sufficient to satisfy housing needs of the future, then ORS 197.296(5) requires the region to take new measures to increase capacity in the region. Measures to increase capacity can include expansion of the urban growth boundary, actions to increase the yield from land within the boundary, or a combination of measures. The Functional Plan contains measures that increase the yield from land within the boundary. These measures include setting minimum densities, increasing zoned capacities for dwelling units and jobs, permitting accessory dwelling units, permitting portioning of lots at least twice the size of the minimum lot size and limiting the amount of land dedicated to parking.

If the jurisdictions in the region do not implement the efficiency measures in the Functional Plan, not only will the region use land less efficiently, but also the region will also not know whether Functional Plan measures would be successful. As a result, the region would lose much of its flexibility to respond to the requirements of ORS 197.296. The region would have to undertake new measures. New measures would likely include significant expansion of the urban growth boundary and others more daunting than the measures in the Functional Plan.

As the jurisdictions are implementing the measures of the Functional Plan, and the region wide capacity targets have been met, the region retains the flexibility under state law to continue its course toward achievement of the 2040 Growth Concept.

NEXT STEPS

- As required by Metro Code Section 3.07.880.B, the Metro Council shall set a public hearing date for the purpose of receiving testimony on the report.

- Metro staff will distribute the report to the local jurisdictions and those who have requested to be on a mailing list to receive the report.
- Presentations will be made to MTAC and MPAC.
- Metro staff will continue to work with the jurisdictional staff as compliance efforts are completed.
- A second report, "Updated Metro Evaluation of Local Government Title 7 (Affordable Housing) Compliance Report" providing details of the requirements of the amended Title 7 and a status report of local compliance will be distributed to the jurisdictions with the 2003 Annual Compliance Report.

Table A: Status of Compliance with the Functional Plan – November 30, 2003

Functional Plan Title	No. of Applicable Jurisdictions	No. of Jurisdictions in Compliance	Percentage Complete
Title 1 – capacity analysis	27	26 (analysis completed)	
Title 1 – map of design types	27	27	
Title 1 – minimum densities	27	25	
Title 1 – partitioning standards	27	27	
Title 1 – accessory dwelling units	27	26	
Title 1 – accessory dwelling units in centers	21		
Title 1 – reporting	27	0	
Total Title 1	162		
Title 2 – minimum/maximum standards	27	27	100%
Title 2 – variance process	27	27	100%
Title 2 – blended ratios	27	27	100%
Total Title 2	81	81	100%
Title 3 – floodplain standards	25	25	100%
Title 3 – water quality standards	26	23	88%
Title 4 – erosion control standards	27	27	100%
Total Title 3	78	75	96%
Title 4 – protection of RSIA's	unknown		
Title 4 – protection of Industrial Areas	20		
Title 4 – protection of Employment Areas	22	22	100%
Total Title 4			
Title 5 – rural reserves	2	2	100%
Title 5 – green corridors	10	9	90%
Title 5 - Total	12	11	92%
Title 6 – Develop a Strategy to Enhance Centers	21		
Title 6 – Special Transportation Areas	21		
Title 6 – Siting Government Offices	21		
Title 6 – Reporting on Centers Progress	21		
Total Title 6	84		
Title 7 – 1st progress report	27	16 (received)	
Title 7 – 2nd progress report	27 – due December 31, 2003	9 (received)	
Title 7 – 3rd progress report	27 – due June 30, 2003	0	
Total Title 7	81	(not available)	(not available)
Total			

Status of Compliance with the Functional Plan (not including December 2002 amendments) – November 30, 2003

Percentage of Completeness by Title 1-6

Functional Plan Title	No. of Applicable Jurisdictions	No. of Jurisdictions in Compliance	Percentage Complete
Title 1 – minimum densities	27	25	93%
Title 1 – partitioning standards	27	27	100%
Title 1 – accessory dwelling units	27	26	96%
Title 1 – map of design types	27	27	100%
Title 1 – capacity analysis	27	26 (analysis completed)	96%
Total Title 1	135	131	97%
Title 2 – minimum/maximum standards	27	27	100%
Title 2 – variance process	27	27	100%
Title 2 – blended ratios	27	27	100%
Total Title 2	81	81	100%
Title 3 – floodplain standards	25	25	100%
Title 3 – water quality standards	26	23	88%
Title 4 – erosion control standards	27	27	100%
Total Title 3	78	75	96%
Title 4 – retail in Industrial Areas	20	20	100%
Title 4 – retail in Employment Areas	22	22	100%
Total Title 4	42	42	100%
Title 5 – rural reserves	2	2	100%
Title 5 – green corridors	10	9	90%
Title 5 - Total	12	11	92%
Title 6 – street design	27	27	100%
Title 6 – street connectivity	27	27	100%
Total Title 6	54	54	100%
Total: Completeness Titles 1-6	402	394	98%

This table shows compliance for Titles 1 through 6, pre-2002 amendments to the Functional Plan.

Status of Compliance by Jurisdiction

Title 1: Housing and Employment Accommodation

	2. capacity analysis	3. map of design types	4.A minimum density	4.B partitioning standards	4.C accessory dwelling units	4.C accessory dwelling units in centers	2 & 4.D Reporting
Beaverton	in compliance	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05
Cornelius	in compliance	in compliance	in compliance	in compliance	in compliance	N/A	07/07/05
Durham	in compliance	in compliance	at City Council	in compliance	in compliance	N/A	07/07/05
Fairview	in compliance	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05
Forest Grove	in compliance	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05
Gladstone	in compliance	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05
Gresham	in compliance	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05
Happy Valley	in compliance	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05
Hillsboro	in compliance	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05
Johnson City	in compliance	in compliance	in compliance	in compliance	in compliance	N/A	07/07/05
King City	in compliance	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05
Lake Oswego	in compliance	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05
Maywood Park	in compliance	in compliance	in compliance	in compliance	in compliance	N/A	07/07/05
Milwaukie	in compliance	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05
Oregon City	in compliance	in compliance	Planning Comm.	in compliance	Planning Comm.	07/07/05	07/07/05
Portland	in compliance	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05
Rivergrove	in compliance	in compliance	in compliance	in compliance	in compliance	N/A	07/07/05
Sherwood	in compliance	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05
Tigard	in compliance	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05
Troutdale	in compliance	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05
Tualatin	in compliance	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05
West Linn	in compliance	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05
Wilsonville	In progress	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05
Wood Village	in compliance	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05
Clackamas C.	in compliance	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05
Multnomah C.	in compliance	in compliance	in compliance	in compliance	in compliance	N/A	07/07/05
Washington C.	in compliance	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05

	Title 2: Regional Parking Policy		
	2.A.1&2 Minimum/Maximum standards	2.A.3 Variance Process	2.B Blended Ratios
Beaverton	in compliance	in compliance	in compliance
Cornelius	in compliance	in compliance	in compliance
Durham	In compliance	In compliance	In compliance
Fairview	in compliance	in compliance	in compliance
Forest Grove	in compliance	in compliance	in compliance
Gladstone	in compliance	in compliance	in compliance
Gresham	in compliance	in compliance	in compliance
Happy Valley	in compliance	in compliance	in compliance
Hillsboro	in compliance	in compliance	in compliance
Johnson City	in compliance	in compliance	in compliance
King City	in compliance	in compliance	in compliance
Lake Oswego	in compliance	in compliance	in compliance
Maywood Park	in compliance	in compliance	in compliance
Milwaukie	in compliance	in compliance	in compliance
Oregon City	in compliance	in compliance	in compliance
Portland	in compliance	in compliance	in compliance
Rivergrove	in compliance	in compliance	in compliance
Sherwood	in compliance	in compliance	in compliance
Tigard	in compliance	in compliance	in compliance
Troutdale	in compliance	in compliance	in compliance
Tualatin	in compliance	in compliance	in compliance
West Linn	in compliance	in compliance	in compliance
Wilsonville	in compliance	in compliance	in compliance
Wood Village	in compliance	in compliance	in compliance
Clackamas County	in compliance	in compliance	in compliance
Multnomah County	in compliance	in compliance	in compliance
Washington County	in compliance	in compliance	in compliance

Title 3: Water Quality, Flood Mgmt and Fish and Wildlife Conservation

	4.A Flood Mgmt Performance Standards	4.B Water Quality Performance	4.C Erosion and Sediment Control
Beaverton	in compliance	in compliance	in compliance
Cornelius	in compliance	in compliance	in compliance
Durham	in compliance	in compliance	in compliance
Fairview	in compliance	in compliance	in compliance
Forest Grove	in compliance	in compliance	in compliance
Gladstone	in compliance	in compliance	in compliance
Gresham	in compliance	in compliance	in compliance
Happy Valley	in compliance	in compliance	in compliance
Hillsboro	in compliance	in compliance	in compliance
Johnson City	in compliance	in compliance	in compliance
King City	in compliance	in compliance	in compliance
Lake Oswego	in compliance	In progress	in compliance
Maywood Park	N/A	N/A	in compliance
Milwaukie	in compliance	in compliance	in compliance
Oregon City	in compliance	in compliance	in compliance
Portland	in compliance	in compliance	in compliance
Rivergrove	in compliance	in compliance	in compliance
Sherwood	in compliance	in compliance	in compliance
Tigard	in compliance	in compliance	in compliance
Troutdale	in compliance	in compliance	in compliance
Tualatin	in compliance	in compliance	in compliance
West Linn	in compliance	In progress	in compliance
Wilsonville	in compliance	in compliance	in compliance
Wood Village	N/A	in compliance	in compliance
Clackamas County	in compliance	Awaiting Ordinance	in compliance
Multnomah County	in compliance	in compliance	in compliance
Washington County	in compliance	in compliance	in compliance

Title 4: Retail in Employment and Industrial Areas

	2. Protection of Regionally Significant Industrial Areas	3. Protection of Industrial Areas	4. Protection of Employment Areas
Beaverton		07/07/05	in compliance
Cornelius		07/07/05	in compliance
Durham		07/07/05	in compliance
Fairview		07/07/05	in compliance
Forest Grove		07/07/05	in compliance
Gladstone		N/A	in compliance
Gresham		07/07/05	in compliance
Happy Valley		N/A	N/A
Hillsboro		07/07/05	in compliance
Johnson City		N/A	N/A
King City		N/A	N/A
Lake Oswego		07/07/05	in compliance
Maywood Park		N/A	N/A
Milwaukie		07/07/05	in compliance
Oregon City		07/07/05	in compliance
Portland		07/07/05	in compliance
Rivergrove		N/A	N/A
Sherwood		07/07/05	in compliance
Tigard		07/07/05	in compliance
Troutdale		07/07/05	in compliance
Tualatin		07/07/05	in compliance
West Linn		N/A	in compliance
Wilsonville		07/07/05	in compliance
Wood Village		07/07/05	in compliance
Clackamas County		07/07/05	in compliance
Multnomah County		07/07/05	in compliance
Washington County		07/07/05	in compliance

<i>Title 5: Neighbor Cities and Rural Reserves</i>	
2. Rural Reserves	2. Green Corridors
N/A	N/A
N/A	N/A
N/A	N/A
N/A	N/A
N/A	N/A
N/A	N/A
N/A	in compliance
N/A	N/A
N/A	in compliance
N/A	N/A
N/A	N/A
N/A	N/A
N/A	N/A
N/A	N/A
N/A	Planning Commission
N/A	N/A
N/A	N/A
N/A	in compliance
N/A	N/A
N/A	N/A
N/A	in compliance
N/A	in compliance
N/A	in compliance
N/A	N/A
in compliance	in compliance
N/A	in compliance
in compliance	in compliance

	<i>Title 6: Central City, Regional Centers, Town Centers and Station Communities</i>			
	2.A Develop a Strategy to Enhance Centers	3. Special Transportation Areas	4. Siting Government Offices	5. Reporting on Centers Progress
Beaverton	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
Cornelius	N/A	N/A	N/A	N/A
Durham	N/A	N/A	N/A	N/A
Fairview	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
Forest Grove	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
Gladstone	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
Gresham	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
Happy Valley	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
Hillsboro	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
Johnson City	N/A	N/A	N/A	N/A
King City	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
Lake Oswego	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
Maywood Park	N/A	N/A	N/A	N/A
Milwaukie	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
Oregon City	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
Portland	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
Rivergrove	N/A	N/A	N/A	N/A
Sherwood	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
Tigard	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
Troutdale	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
Tualatin	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
West Linn	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
Wilsonville	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
Wood Village	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
Clackamas County	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
Multnomah County	N/A	N/A	N/A	N/A
Washington County	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05

Title 7: Affordable Housing					
	First Progress Report – 2002 ¹			Second Progress Report – 2003 ²	Third Progress Report – 2004
	Report Received	15 Strategies Addressed	Consideration by Elected Body		
Beaverton	Received	No	No		
Cornelius					
Durham	Received	No	No		
Fairview	Received		Yes	Report Received	
Forest Grove	Received	No	Yes		
Gladstone					
Gresham	Received	No	Yes	Report Received	
Happy Valley	Received	No	No		
Hillsboro	Received	No	Yes		
Johnson City					
King City				Report Received	
Lake Oswego					
Maywood Park					
Milwaukie					
Oregon City					
Portland	Received	No	No		
Rivergrove					
Sherwood					
Tigard	Received	No	Yes	Report Received	
Troutdale	Received	No	Yes	Report Received	
Tualatin	Received	No	No		
West Linn	Received	No	Yes	Report Received	
Wilsonville					
Wood Village	Received	No	No	Report Received	
Clackamas County.	Received	No	No		
Multnomah County.	Received	No	No	Report Received	
Washington County	Received	No	Yes	Report Received	

¹ – January 31, 2002 is the deadline for the first year progress report of Title 7 (Affordable Housing) of the Urban Growth Management Functional Plan amended by the Metro Council in June 2003 (Ordinance No. 03-1005A).

² – December 31, 2003 is the deadline for the second year progress report of Title 7 (Affordable Housing) of the Urban Growth Management Functional Plan amended by the Metro Council in June 2003 (Ordinance No. 03-1005A).

Table B: COMPLIANCE DATES FOR THE URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN
July 29, 2003

Functional Plan Requirement	When Local Decisions Must Comply		
	Plan/Code Amendment	Land Use Decision	Adoption
Title 1: Determine capacity for housing and jobs (3.07.120.A)			12/08/02
Title 1: Report changes to jobs/housing capacity annually (3.07.120.D)			07/07/05
Title 1: Map design types (3.07.130)	12/08/00	12/08/01	12/08/02
Title 1: adopt minimum density (3.07.140.A)	12/08/00	12/08/01	12/08/02
Title 1: , no prohibition to partition lots twice the minimum size (3.07.140.B)	12/08/00	12/08/01	12/08/02
Title 1: allow accessory dwelling unit in SFD (3.07.140.C)	12/08/00	12/08/01	12/08/02
Title 1: allow accessory dwelling unit in attached SFD in Centers and Stations (3.07.140.C)	07/07/03	07/07/04	07/07/05
Title 1: report density of residential development (3.07.140.D)			07/07/05
Title 2: parking minimum and maximum standards (3.07.220.A.1)	01/07/98	01/07/99	01/07/00
Title 2: Adopt maximum parking standards (3.07.220.A.2)	01/07/98	01/07/99	01/07/00
Title 2: adopt blended parking ratios in mixed-use areas (3.07.220.B)	01/07/98	01/07/99	01/07/00
Title 2: Establish a variance process (3.07.220.A.3)	01/07/98		01/07/00
Title 2: monitor and report parking data annually (3.07.220.D)	01/07/98		01/07/00
Title 3: Adopt model or equivalent and map or equivalent (3.07.330.A)	12/08/00)	12/08/01	12/08/02
Title 3: floodplain management performance standards (3.07.340.A)	12/08/00	12/08/01	12/08/02
Title 3: water quality performance standards (3.07.340.B)	12/08/00	12/08/01	12/08/02
Title 3: erosion control performance standards (3.07.340.C)	12/08/00	12/08/01	12/08/02
Title 3: fish and wildlife habitat Conservation (3.07.350)			
Title 4: map RSIAs in new UGB additions (3.07.420.A)	07/07/03	07/07/04	07/07/05
Title 4: Map RSIAs in pre-expansion UGB (3.07.430.B)	07/07/03	07/07/04	07/07/05
Title 4: limit uses in Regionally Significant Industrial Areas (3.07.420)	07/07/03	07/07/04	07/07/05

Functional Plan Requirement	When Local Decisions Must Comply		
	Plan/Code Amendment	Land Use Decision	Adoption
Title 4: limit retail uses in Industrial Areas (60,000 sq ft) (3.07.430)	01/07/98	01/07/99	01/07/00
Title 4: limit retail uses in Industrial Areas (20,000 sq ft) (3.07.430)	07/07/03	07/07/04	07/07/05
Title 4: limit retail uses in Employment Areas (60,000 sq ft) (3.07.440)	1/07/98	01/07/99	01/07/00
Title 4: limit retail uses in Employment Areas (3.07.440)	07/07/03	07/07/04	07/07/05
Title 5: rural reserves (3.07.520)	01/07/98		01/07/00
Title 5: green corridors (3.07.520)	01/07/98		01/07/00
Title 6: develop a strategy for each Center (3.07.620)			Mutually agreed timeframe
Title 6: address barriers to siting government offices in centers (3.07.640)			
Title 6: require demonstration that government offices cannot be located in Centers (3.07.640.B)	07/07/03	07/07/04	07/07/05
Title 6: reporting on progress (3.07.650)			07/07/05
Title 7: adopt strategies and measures to increase housing opportunities (3.07.730.A)			
Title 7: consider specific tools and strategies (3.07.730.B, 3.07.760)			
Title 7: report progress at specified times (3.07.740)			
Title 8: compliance procedures	02/14/03		
Title 9: Performance Measures			
Title 10: definitions	12/08/00	12/08/01	12/08/02
Title 11: set interim protection for areas brought into the UGB (3.07.1110)	12/08/00	12/08/01	12/08/02
Title 11: prepare a comprehensive plan and zoning provisions for territory added to the UGB (3.07.1120)	12/08/00		Metro sets date
Title 12: establish level of service standards for parks 3.07.1240.A)			2 years after Parks Functional Plan Adopted
Title 12: provide access to parks by walking, bicycling, transit (3.07.1240B)			07/07/05

Ordinance No. 04-1033, For the Purpose of Amending Metro Code Chapter 3.09 (Local Government Boundary Changes) to Allow Use of the Expedited Process for Changes to the Metro District Boundary and to Clarify Criteria for Boundary Changes; and Declaring an Emergency.

First Reading

Metro Council Meeting
Thursday, January 29, 2004
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING)
METRO CODE CHAPTER 3.09 (LOCAL)
GOVERNMENT BOUNDARY CHANGES)) ORDINANCE NO. 04-1033
TO ALLOW USE OF THE EXPEDITED)
PROCESS FOR CHANGES TO THE METRO)
DISTRICT BOUNDARY AND TO CLARIFY) Introduced by Council President Bragdon
CRITERIA FOR BOUNDARY CHANGES,) and Councilor McLain
AND DECLARING AN EMERGENCY)

WHEREAS, the Metro Council intends that territory added to the urban growth boundary (“UGB”) become available for urbanization, consistent with the Urban Growth Management Functional Plan (“UGMFP”), in a timely and orderly fashion; and

WHEREAS, the Council, pursuant to Metro Code Section 3.01.040, applies a design type from the 2040 Growth Concept to the territory at the time the Council adds it to the UGB; and

WHEREAS, Title 11 of the UGMFP (Planning for New Urban Areas) ensures that territory added to the UGB will not be urbanized until appropriate planning and zoning designations consistent with the Growth Concept design type are applied by the responsible city or county; and

WHEREAS, there are circumstances in which territory added to the UGB should be annexed to the Metro district quickly to facilitate the timely and orderly urbanization of the territory; and

WHEREAS, Metro Code Chapter 3.09 (Local Government Boundary Changes) does not currently authorize use of the expedited process, set forth in Section 3.09.045, for minor changes to the Metro District boundary; and

WHEREAS, the criteria for boundary changes in Chapter 3.09 are not clear, as required by state law; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. Chapter 3.09 of the Metro Code is hereby amended, as indicated in Exhibit A, attached and incorporated into this ordinance, in order to authorize annexation to the Metro District of territory in the UGB through the expedited process for minor boundary changes in Chapter 3.09 and to clarify the criteria for boundary changes.

2. The Findings of Fact and Conclusions of Law in Exhibit B, attached and incorporated into this ordinance, demonstrate that these amendments to Chapter 3.09 comply with the Regional Framework Plan and statewide planning laws.

3. This ordinance is necessary for the immediate preservation of public health, safety and welfare because the time involved in processing applications for change to the Metro District boundary is delaying the replenishment of the supply of project-ready industrial sites in the region. An emergency is therefore declared to exist, and this ordinance shall take effect immediately, pursuant to Metro Charter section 39(1).

ADOPTED by the Metro Council this ____ day of _____ 2004.

David Bragdon, Council President

ATTEST:

Approved as to Form:

Recording Secretary

Daniel B. Cooper, Metro Attorney

Exhibit A to Ordinance No. 04-1033
Amendments To Chapter 3.09
Local Government Boundary Changes

3.09.010 Purpose and Applicability

The purpose of this chapter is to carry out the provisions of ORS 268.354. This chapter applies to all boundary changes within the boundaries of Metro ~~or and any urban reserve designated by Metro prior to June 30, 1997~~ annexation of territory to the Metro boundary. Nothing in this chapter affects the jurisdiction of the Metro Council to amend the region's Urban Growth Boundary ("UGB").

3.09.020 Definitions

As used in this chapter, unless the context requires otherwise:

- (a) "Affected entity" means a county, city, or special district for which a boundary change is proposed or is ordered.
- (b) "Affected territory" means territory described in a petition.
- (c) "Approving entity" means the governing body of a city, county, city-county or district authorized to make a decision on a boundary change, or its designee.
- (d) "Boundary change" means a major or minor boundary change, involving affected territory lying within the jurisdictional boundaries of Metro and the urban reserves designated by Metro prior to June 30, 1997.
- (e) "Contested case" means a boundary change decision by a city, county or district that is contested or otherwise challenged by a necessary party.
- (f) "District" means a district defined by ORS 198.710 or any district subject to Metro boundary procedure act under state law.
- (g) "Final decision" means the action by an approving entity whether adopted by ordinance, resolution or other means which is the determination of compliance of the proposed boundary change with all applicable criteria and which requires no further discretionary decision or action by the approving entity other than any required referral to electors. "Final decision" does not include resolutions, ordinances or other actions whose sole purpose is to refer the boundary change to electors or to declare the results of an election.
- (h) "Major boundary change" means the formation, merger, consolidation or dissolution of a city or district.
- (i) "Minor boundary change" means (i) an annexation or withdrawal of territory to or from a city or district or from a city-county to a city. "Minor boundary change" also means an extra-territorial extension of water or sewer service by a city or district.

(j) "Necessary party" means: any county, city or district whose jurisdictional boundary or adopted urban service area includes any part of the affected territory or who provides any urban service to any portion of the affected territory, Metro, and any other unit of local government, as defined in ORS 190.003, that is a party to any agreement for provision of an urban service to the affected territory.

(k) "Petition" means a petition, resolution or other form of initiatory action for a boundary change.

(l) "Uncontested case" means a boundary change decision by an approving entity that is not challenged by a necessary party to that decision.

(m) "Urban services" means sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit.

3.09.030 Uniform Notice Requirements for Final Decisions

(a) The following minimum requirements apply to all boundary change decisions by an approving entity. Approving entities may choose to provide more notice than required. These procedures are in addition to and do not supersede the applicable requirements of ORS Chapters 197, 198, 221 and 222 and any city or county charter for boundary changes. Each approving entity shall provide for the manner of notice of boundary change decisions to affected ~~persons~~ entities and necessary parties.

(b) An approving entity shall, within 30 days after the petition is completed, set a time for ~~deliberations~~ a public hearing on a boundary change ~~within 30 days after the petition is completed~~. The approving entity shall give notice of its ~~proposed deliberations~~ public hearing by mailing notice to all necessary parties, by weatherproof posting of the notice in the general vicinity of the affected territory, and by publishing notice in a newspaper of general circulation in the affected territory. Notice shall be mailed and posted at least 45 days prior to the date of ~~decision~~ the hearing for major boundary changes and for those minor boundary changes which are not within the scope of adopted urban service provider agreements and for which a shorter notice period has not been agreed to by all necessary parties. However, notice of minor boundary changes to ~~special~~ districts may be mailed and posted at least 40 days prior to the proposed date of ~~decision~~ the hearing. Notice shall be published as required by state law.

(c) The notice of the date of the public hearing, or of deliberations if the decision is to be made without a hearing pursuant to Section 3.09.045, shall: describe the affected territory in a manner that allows certainty; state the date, time and place where the approving entity will consider the boundary change; and state the means by which any interested person may obtain a copy of the approving entity's report on the proposal. The notice shall state whether the approving entity intends to decide the boundary change without a public hearing unless a necessary party requests a public hearing.

(d) An approving entity may adjourn or continue its final decision on a proposed boundary change to another time. For a continuance later than 31 days after the time stated in the original notice, notice shall be reissued in the form required by subsection (b) of this section at least 15 days prior to the continued date of decision. For a continuance scheduled within 31 days of the previous date for decision, notice shall be adequate if it contains the date, time and place of the continued date of decision.

(e) An approving entity's final decision shall be reduced to writing and authenticated as its official act ~~within 5~~ five working days following the decision and mailed to Metro and to all necessary parties to the decision. The mailing to Metro shall include payment to Metro of the filing fee required pursuant to Section 3.09.110. The date of mailing shall constitute the date from which the time for appeal runs for appeal of the decision to the Metro Boundary Appeals Commission.

(f) Each county shall maintain a current map and list showing all necessary parties entitled to receive notice of proposed boundary changes. A county shall provide copies of the map, list, and any changes thereto, to Metro.

3.09.040 Minimum Requirements for Petitions

(a) A petition for a boundary change shall be deemed complete if it includes the following information:

- (1) The jurisdiction of the approving entity to act on the petition;
- (2) A narrative, legal and graphical description of the affected territory in the form prescribed by the Metro Chief Operating Officer;
- (3) For minor boundary changes, the names and mailing addresses of all persons owning property and all electors within the affected territory as shown in the records of the tax assessor and county clerk;
- (4) A listing of the present providers of urban services to the affected territory;
- (5) A listing of the proposed providers of urban services to the affected territory following the proposed boundary change;
- (6) The current tax assessed value of the affected territory; and
- (7) Any other information required by state or local law; and
- (8) An explanation how the petition satisfies the criteria in subsections (d) or (e) of 3.09.050, in subsection (e) of 3.09.120, or in subsection (c) of 3.09.130, whichever are applicable.

(b) A city, ~~or county,~~ or Metro may charge a fee to recover its reasonable costs to carry out its duties and responsibilities under this chapter.

3.09.045 Expedited Decisions

(a) Approving entities may establish an expedited decision process that does not require a public hearing ~~consistent with this section~~. Expedited decisions are not subject to the requirements of Sections 3.09.030(b) and 3.09.050(a), (b), (c), (e) or (f). The expedited decision process may only be utilized for minor boundary changes where the petition initiating the ~~minor boundary~~ change is accompanied by the written consent of one hundred percent (100%) of the property owners and at least fifty percent (50%) of the electors, if any, within the affected territory.

(b) Notwithstanding the notice requirements in subsection (b) of section 3.09.030, ~~the~~ expedited decision process must provide for a minimum of 20 days notice to all ~~interested~~ necessary parties and persons otherwise legally entitled to notice. The notice shall state that the petition is subject to the expedited process. The expedited process may not be utilized if a necessary party gives written notice of its intent to contest the decision prior to the date of the decision. A necessary party may not contest a minor boundary change where the minor boundary change is explicitly authorized by an urban services agreement adopted pursuant to ORS 195.065.

(c) At least seven days prior to the date of decision the approving entity shall make available to the public a brief report that ~~addresses the factors listed in~~ complies with Section 3.09.050(b). The decision record shall demonstrate compliance with the criteria ~~contained in Sections 3.09.050 subsections (d) and (g) of Section 3.09.050.~~

(d) Decisions made pursuant to an expedited process are not subject to appeal ~~by a necessary party~~ pursuant to Section 3.09.070.

3.09.050 Uniform Hearing and Decision Requirements for Final Decisions Other Than Expedited Decisions

(a) The following minimum requirements for hearings on ~~boundary change decisions petitions~~ operate in addition to all procedural requirements for boundary changes provided for under ORS chapters 198, 221 and 222. Nothing in this chapter requires an approving entity to hold a public hearing in addition to a hearing required by ORS 221.040, or allows an approving entity to dispense with a public hearing on a proposed boundary change when the public hearing is required by applicable state statutes or is required by the approving entity's charter, ordinances or resolutions.

(b) Not later than 15 days prior to the date set for a ~~boundary change decision hearing~~, the approving entity shall make available to the public a report that addresses the criteria in subsections (d) and (g) ~~below of this section, and that includes at a minimum~~ the following information:

- (1) The extent to which urban services presently are available to serve the affected territory including any extra territorial extensions of service;
- (2) ~~A description of how the proposed boundary change complies with any urban service provider agreements adopted pursuant to ORS 195.065 between the affected entity and all necessary parties;~~
- (3) ~~A description of how the proposed boundary change is consistent with the comprehensive land use plans, public facility plans, regional framework and functional plans, regional urban growth goals and objectives, urban planning agreements and similar agreements of the affected entity and of all necessary parties;~~
- (4) ~~Whether the proposed boundary change will result in the withdrawal of the affected territory from the legal boundary of any necessary party; and~~
- (5) The proposed effective date of the decision.

(c) In order to have standing to appeal a boundary change decision pursuant to Section 3.09.070 a necessary party must appear at the hearing in person or in writing and state reasons why ~~the necessary party believes~~ the boundary change is inconsistent with the approval criteria. A necessary party may not contest a boundary change where the boundary change is explicitly authorized by an urban services agreement adopted pursuant to ORS 195.065. At any public hearing, the persons or entities proposing the boundary change shall have the burden to prove that the ~~petition~~ proposal meets the criteria for a boundary change.

(d) An approving entity's final decision on a boundary change shall include findings and conclusions ~~addressing the following criteria~~ to demonstrate that the affected territory lies within the UGB and that the proposal is consistent with:

- (1) ~~Consistency with directly applicable provisions in an urban service provider agreement or annexation plan adopted pursuant to ORS 195.065 or an annexation plan adopted pursuant to ORS 195.205;~~ Applicable provisions in an urban service provider agreement or annexation plan adopted pursuant to ORS 195.065 or an annexation plan adopted pursuant to ORS 195.205;
- (2) ~~Consistency with directly applicable provisions of urban any cooperative planning or other agreements, other than agreements adopted pursuant to ORS 195.065, agreement adopted pursuant to ORS 195.020(2) or other planning agreement between the affected entity and a necessary party;~~ Applicable provisions of urban any cooperative planning or other agreements, other than agreements adopted pursuant to ORS 195.065, agreement adopted pursuant to ORS 195.020(2) or other planning agreement between the affected entity and a necessary party;
- (3) ~~Consistency with specific directly applicable~~ Clear and objective standards or criteria for boundary changes contained in applicable comprehensive land use plans and public facility plans;
- (4) ~~Consistency with specific directly applicable~~ Clear and objective standards or criteria for boundary changes contained in the Regional Framework Plan or any functional plan;
- (5) ~~Whether the proposed change will promote or not interfere with~~ The timely, orderly and economic provisions of public facilities and services; and
- (6) ~~The territory lies within the Urban Growth Boundary; and~~
- (7) ~~Consistency with other applicable~~ Clear and objective criteria for applicable to the boundary change in question under other state and local laws.

(e) ~~When If~~ If there is no urban service agreement adopted pursuant to ORS 195.065 that is applicable applies to the affected territory, and a boundary change decision is contested by a necessary party, the approving entity shall also address and consider, information on the following factors in determining whether the proposed boundary change meets the criteria of Sections 3.09.050(d) and (e). ~~The findings and conclusions adopted by the approving entity shall explain how these factors have been considered.~~ demonstrate that:

- (1) ~~The relative financial, operational and managerial capacities of alternative proposed providers of the disputed urban services to the affected area territory have the financial, operational and managerial capacity to provides the services;~~ proposed providers of the disputed urban services to the affected area territory have the financial, operational and managerial capacity to provides the services;
- (2) ~~The quality and quantity of the urban services at issue with alternative providers of the urban services, including differences in cost and allocations of costs of the services and accountability of the alternative providers~~ proposed providers of urban services to the affected territory can provide the necessary quality and quantity of service at a reasonable cost;
- (3) ~~There are no Pphysical factors related to the that would prevent feasible provision of urban services by alternative proposed providers;~~ There are no Pphysical factors related to the that would prevent feasible provision of urban services by alternative proposed providers;

- (4) ~~For proposals to create a new entity the feasibility of creating the new entity.~~
- (5) ~~Plans to provide urban services to the affected territory will eliminate or avoid~~ Plans to provide urban services to the affected territory will eliminate or avoid ~~The elimination or avoidance of unnecessary duplication of facilities;~~
- (6) ~~Economic, demographic and sociological trends and projections relevant to the provision of the urban services~~ Economic, demographic and sociological trends and projections relevant to the provision of the urban services indicate that services are feasible in the affected territory;
- (7) ~~Matching~~ The recipients of tax supported urban services with ~~will, to the extent possible, be the payers of the tax;~~
- (8) ~~The equitable~~ Allocation of the costs to alternative proposed urban service providers of serving between new development and prior development will be equitable. ~~and~~
- (9) ~~Economies of scale.~~
- (10) ~~Where a proposed decision is inconsistent with an adopted intergovernmental agreement, that the decision better fulfills the criteria of Section 3.09.050(d) considering Factors (1) through (9) above.~~

(f) ~~Only territory already within the defined Metro Urban Growth Boundary UGB at the time a petition is complete an approving entity considers its decision may be annexed to a city or included in territory proposed for incorporation into a new city. However, cities may annex individual tax lots partially within and without outside the Urban Growth Boundary UGB.~~

(g) A final boundary change decision by an approving entity shall state the effective date, which date shall be no earlier than 10 days following the date that the written ~~decision is reduced to writing, and~~ decision is ~~reduced to writing, and~~ mailed to all necessary parties. However, a decision that has not been contested by any necessary party may become effective upon adoption.

(h) Only territory already within the jurisdictional boundary of Metro at the time a petition is complete may be annexed to a city.

3.09.060 Creation of Boundary Appeals Commission

(a) The Metro Boundary Appeals Commission is created to decide contested cases of final boundary change decisions made by approving entities. The Metro Council shall appoint the Commission which shall consist of three citizen members, one each to be appointed from a list of nominees provided to the Metro Council President at least 30 days prior to the commencement of each term by Clackamas, Multnomah and Washington counties, respectively. The Council shall appoint two of the members for a initial four-year term and one for a nominal two-year term, the initial terms to be decided by chance; thereafter, each commissioner shall serve a four year term. Each Commission member shall continue to serve in that position until replaced. Commission members may not hold any elective public office.

(b) The Metro Chief Operating Officer shall provide staff assistance to the Commission and shall prepare the Commission's annual budget for approval by the Metro Council.

(c) At its first meeting and again in its first meeting of each successive calendar year, the Commission shall adopt rules of procedure that address, among other things, the means by which a position is declared vacant and the means of filling a vacant position; and, the Commission at that first meeting shall elect a chairperson from among its membership, who shall serve in that position until a successor is elected and who shall preside over all proceedings before the Commission.

3.09.070 How Contested Case Filed

(a) A necessary party to a final decision that has appeared in person or in writing as a party in the hearing before the approving entity decision may contest the decision before the Metro Boundary Appeals Commission. A contest shall be allowed only if notice of appeal is served on the approving entity no later than the close of business on the 10th day following the date that the written decision is ~~reduced to writing, authenticated and~~ mailed to necessary parties. A copy of the notice of appeal shall be served on the same day on Metro together with proof of service on the approving entity, the affected entity and all necessary parties. The notice of appeal shall be accompanied by payment of Metro's prescribed appeal fee. Service of notice of appeal on the approving entity, the affected entity and all necessary parties by mail within the required time and payment of the prescribed appeal fee shall be jurisdictional as to Metro's consideration of the appeal.

(b) An approving entity shall prepare and certify to Metro, no later than 20 days following the date the notice of appeal is served upon it, the record of the boundary change proceedings.

(c) A contested case is a remedy available by right to a necessary party. When a notice of appeal is filed, a boundary change decision shall not be final until resolution of the contested case by the Commission.

(d) A final decision of an approving entity is subject to appeal to the Commission by a necessary party when it is the last action that needs to be taken by the approving entity prior to the referral of the boundary change to the electors in those cases where approval of the electors is required or permitted.

3.09.080 Alternate Resolution

(a) On stipulation of all parties to a contested case made at any time before the close of the hearing before the Commission, the Commission shall stay further proceedings before it for a reasonable time to allow the parties to attempt to resolve the contest by other means.

(b) A contested case that is not resolved by alternate means during the time allowed by the Commission shall be rescheduled for hearing in the normal course.

3.09.090 Conduct of Hearing

(a) The Commission shall schedule and conduct a hearing on a contested case no later than 30 days after certification of the record of the boundary change proceedings.

(b) The Commission shall hear and decide a contested case only on the certified record of the boundary change proceeding. No new evidence shall be allowed. The party bringing the appeal shall have the burden of persuasion.

(c) The Commission shall hear, in the following order, the Metro staff report, if any; argument by the approving entity and the affected entity; argument of the party that contests the decision below; and rebuttal argument by the approving entity and the affected entity. The Commission may question any person appearing before it. Metro staff shall not make a recommendation to the Commission on the disposition of a contested case.

(d) The deliberations of the Commission may be continued for a reasonable period not to exceed 30 days.

(e) The Chairperson may set reasonable time limits for oral presentation and may exclude or limit cumulative, repetitious or immaterial testimony. The Chairperson shall cause to be kept a verbatim oral, written, or mechanical record of all proceedings before the Commission.

(f) No later than 30 days following the close of a hearing before the Commission on a contested case, the Commission shall consider its proposed written final order and shall adopt the order by majority vote. The order shall include findings and conclusions on the criteria for decision listed in subsections (d) and (g) of Section 3.09.050~~(d) and (g)~~. The order shall be deemed final when reduced to writing ~~in the form adopted~~, and served by mailing on all parties to the hearing.

(g) The Commission shall affirm or deny a final decision made below based on substantial evidence in the whole record. The Commission shall have no authority to remand a decision made below for further proceedings before the approving entity, and may only stay its proceedings to allow for alternate resolution as provided for in this chapter.

3.09.100 Ex Parte Communications to the Boundary Appeals Commission

Commission members shall place in the record a statement of the substance of any written or oral ex parte communication on a fact in issue made to them during the pendency of the proceeding on a contested case. A party to the proceeding at its request shall be allowed a reasonable opportunity to rebut the substance of the communication.

3.09.110 Ministerial Functions of Metro

(a) Metro shall create and keep current maps of all service provider service areas and the jurisdictional boundaries of all cities, counties and special districts within Metro. The maps shall be made available to the public at a price that reimburses Metro for its costs. Additional information requested of Metro related to boundary changes shall be provided subject to applicable fees.

(b) The Metro Chief Operating Officer shall cause notice of all final boundary change decisions to be sent to the appropriate county assessor(s) and elections officer(s), the Secretary of State and the Oregon Department of Revenue.

(c) The Metro Chief Operating Officer shall establish a fee structure for establishing the amounts to be paid upon filing notice of city or county adoption of boundary changes, appeals to the Boundary Appeals Commission and for related services. The fee schedule shall be filed with the Council Clerk and distributed to all cities, counties and special districts within the Metro region.

3.09.120 Minor Boundary Changes to Metro's Boundary

(a) Minor boundary changes to the Metro Boundary may be initiated by Metro, the city or county responsible for concept planning for the affected territory specified pursuant to Metro Code Section 3.01.040, property owners, and electors, or others as otherwise provided by law. Petitions shall meet the minimum requirements of Section 3.09.040 above. The Chief Operating Officer shall establish a filing fee schedule for petitions that shall reimburse Metro for the expense of processing and considering petitions. The fee schedule shall be filed with the Council.

(b) Notice of proposed minor boundary changes to the Metro Boundary shall be given as required pursuant to Section 3.09.030.

(c) Hearings will be conducted consistent with the requirements of Section 3.09.050. When it takes action on a minor boundary change, the Metro Council shall consider the requirements of Section 3.09.050 and all provisions of applicable law.

(d) Minor boundary changes to the Metro Boundary ~~are not subject~~ may be made pursuant to ~~an~~ the expedited process set forth in Section 3.09.045.

(e) The following criteria shall apply in lieu of the criteria set forth in subsection (d) or (e) of Section 3.09.050 to a minor boundary change to Metro's boundary. The Metro Council's final decision on a boundary change shall include findings and conclusions to demonstrate that:

(1) The affected territory lies within the UGB; and

(2) Upon annexation to the district, the affected territory will become subject to the interim protection standards set forth in Metro Code section 3.07.1120 and any conditions imposed by the ordinance adding the territory to the UGB.

(ef) Contested case appeals of decisions regarding minor boundary changes to the Metro Boundary are subject to appeal as provided in Section 3.09.070.

3.09.130 Incorporation of a City that Includes Territory Within Metro's Boundary

(a) A petition to incorporate a city that includes territory within Metro's jurisdictional boundary shall comply with the minimum notice requirements in section 3.09.030, the minimum requirements for a petition in section 3.09.040, the hearing and decision requirements in subsections (a), (c), and (f) of section 3.09.050, and the contested case requirements and hearing provisions of 3.09.070, 3.09.080, 3.09.090, and 3.09.100.

(b) A petition to incorporate a city that includes territory within Metro's jurisdictional boundary may include territory that lies outside Metro's UGB. However, incorporation of a city with such territory shall not authorize urbanization of that territory until the Metro Council includes the territory in the UGB pursuant to Metro Code Chapter 3.01.

(c) The following criteria shall apply in lieu of the criteria set forth in Section 3.09.050(d) and (e). An approving entity shall demonstrate that incorporation of the new city complies with the following criteria:

(1) At least 150 people reside in the territory proposed for incorporation, as required by ORS 221.020;

(2) No part of the territory proposed for incorporation lies within the boundary of another incorporated city, as prohibited in ORS 221.020;

(3) The petition complies with the requirements of ORS 221.031;

(4) The petitioner's economic feasibility statement complies with the requirements of ORS 221.035;

(5) If some of the territory proposed for incorporation lies outside the Metro UGB, that portion of the territory conforms to the requirements of ORS 221.034;

(6) The petitioner's economic feasibility statement indicates that the city must plan for average residential density of at least 10 dwelling units per net developable residential acre or such other density specified in Title 1 (Requirements for Housing and Employment Accommodation) of the Urban Growth Management Functional Plan; and

(7) Any city whose approval of the incorporation is required by ORS 221.031(4) has given its approval or has failed to act within the time specified in that statute.

STAFF REPORT

FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 3.09 (LOCAL GOVERNMENT BOUNDARY CHANGES) TO ALLOW USE OF THE EXPEDITED PROCESS FOR CHANGES TO THE METRO DISTRICT BOUNDARY AND TO CLARIFY CRITERIA FOR BOUNDARY CHANGES, AND DECLARING AN EMERGENCY

Date: January 14, 2004

Prepared by: Dick Benner
Presented by: Dick Benner

PROPOSED ACTION

Adoption of ordinance 04-1033 amending Metro Code Chapter 3.09 (Local Government Boundary Changes) to allow use of the expedited process for changes to the Metro district boundary and to clarify criteria for boundary changes, and declaring an emergency.

BACKGROUND

Attached to this memorandum is a draft ordinance amending the Metro Code on boundary changes. The Office of Metro Attorney (“OMA”) drafted the changes to accomplish several objectives:

1. To make the process of annexing territory to the Metro district easier and faster.
2. To specify the process and criteria for incorporation of a new city within Metro’s boundary.
3. To make the criteria for boundary changes clearer and more objective.
4. To bring the code in line with state and local law and with Metro’s experience.

OMA recommends that the Council adopt these changes following public comments and the revisions that may follow from those comments.

1. Ease the Process for Annexation to the Metro District

The Metro Code on annexations (Chapter 3.09) provides an expedited process for “consent” annexations to which no “necessary party” (defined) objects. The current code, however, expressly makes this expedited process unavailable for annexations to the Metro district. The draft ordinance would amend the code to make “consent” annexations to the district eligible for the faster process. [Note: the Council added a requirement to Title 11 (Planning for New Urban Areas) that territory added to the UGB be annexed to the district prior to urbanization.]

2. Specify Process and Criteria for Incorporation of New Cities

The Metro Code does not specify a process or criteria tailored to the incorporation of a new city within Metro’s boundary. The draft ordinance adds a new section aimed particularly at such incorporations, such as the incorporation of Damascus. The proposed revisions also reflect recent changes in the statutes on incorporations in the Metro area.

3. Make Criteria Clearer and More Objective

The Metro statute – ORS Chapter 268 – requires Metro to establish clear and objective criteria for review of proposed boundary changes [268.354(1)(d)]. The criteria in the current code are subject to criticism on this count. The draft ordinance moves the criteria toward greater clarity and objectivity while addressing the subjects and policies in the current code.

4. Bring the Code up to Date

There have been changes both to the statutes on boundary changes and LCDC rules that have made several provisions in the Metro Code on boundary changes out of date. The proposed revisions bring the code into line with recent changes to state law on incorporation of new cities (*e.g.*, special provisions for new cities whose boundary would include land both within and outside Metro's UGB). The revisions also respond to changes in LCDC's rules on urban reserves (urban reserves no longer required).

ANALYSIS/INFORMATION

1. Known opposition

None at this time.

2. Legal antecedents

ORS chapters 198 and 268; Metro Code chapter 3.09 (Local Government Boundary Changes).

3. Anticipated effects

If the proposed revisions are made to the Metro Code on boundary changes, review of proposed boundary changes will become faster and will require fewer public and private resources for processing the changes. This will especially be true for changes to the Metro district boundary.

4. Budget impacts

If the proposed revisions are made to the Metro Code on boundary changes, the staff anticipates that fewer resources (time, contract funds) will be required for the processing changes to the Metro district boundary.

Agenda Item Number 6.1

Resolution No. 04-3402, For the Purpose of Granting an Easement to Oregon Department of Transportation for Non-Park Use Through Metro Property Located in Hillsboro at 4800 SW Hillsboro Highway.

Metro Council Meeting
Thursday, January 29, 2004
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF GRANTING AN)	RESOLUTION NO. 04-3402
EASEMENT TO OREGON DEPARTMENT OF)	
TRANSPORTATION FOR NON-PARK USE)	Introduced by Michael Jordan, Chief
THROUGH METRO PROPERTY LOCATED IN)	Operating Officer with the concurrence of
HILLSBORO AT 4800 SW HILLSBORO)	Council President David Bragdon
HIGHWAY)	

WHEREAS, Metro owns property in Washington County on Hillsboro Highway (219); and

WHEREAS, Oregon Department Of Transportation is requesting a permanent easement and a temporary easement on a Metro owned parcel of land to add left and right turn refuge lanes on Hillsboro Highway at Tongue Road; and

WHEREAS, the proposed size of the permanent easement is 2,325 square feet and the temporary easement is 1,485 square feet along Highway 219; and

WHEREAS, Oregon Department Of Transportation has agreed to pay Metro \$650 fair market value for the permanent easement and to pay Metro's cost and expenses to process this easement request; and

WHEREAS, Resolution No. 97-2539B "For the Purpose of Approving General Policies Related to the Review of Easements, Right-Of-Ways and Leases for Non-Park Uses Through Properties Managed by the Regional Parks and Greenspaces Department" requires formal review of all easement requests by the full Metro Council; and

WHEREAS; the Metro Parks Department has determined that this easement request has met the criteria in Resolution 97-2539B, as identified in Exhibit B, and can be accommodated with minimal impact to natural resources, recreational resources, recreational facilities, recreational opportunities or operation and management; now therefore

BE IT RESOLVED that the Metro Council authorizes the Chief Operating Officer to grant a permanent and temporary easement to Oregon Department of Transportation for installing turn lanes on Highway 219 and Tongue Road as depicted in Exhibit A and set forth in the attached legal document, Exhibit C, on the tract of land owned by Metro, in Washington County at 4800 SW Hillsboro Highway.

ADOPTED by the Metro Council this ____ day of _____, 2004.

David Bragdon, Council President

APPROVED AS TO FORM:

Daniel B. Cooper, Metro Attorney

Sec. 18, T. 1 S., R. 2 W., W.M.
Sec. 13, T. 1 S., R. 3 W., W.M.
DRG. NO. 10B-17-22
PROJECT NO. 7043

Michael J. & Debi L. McCallen
96030820
Rem: 5.670 ha±

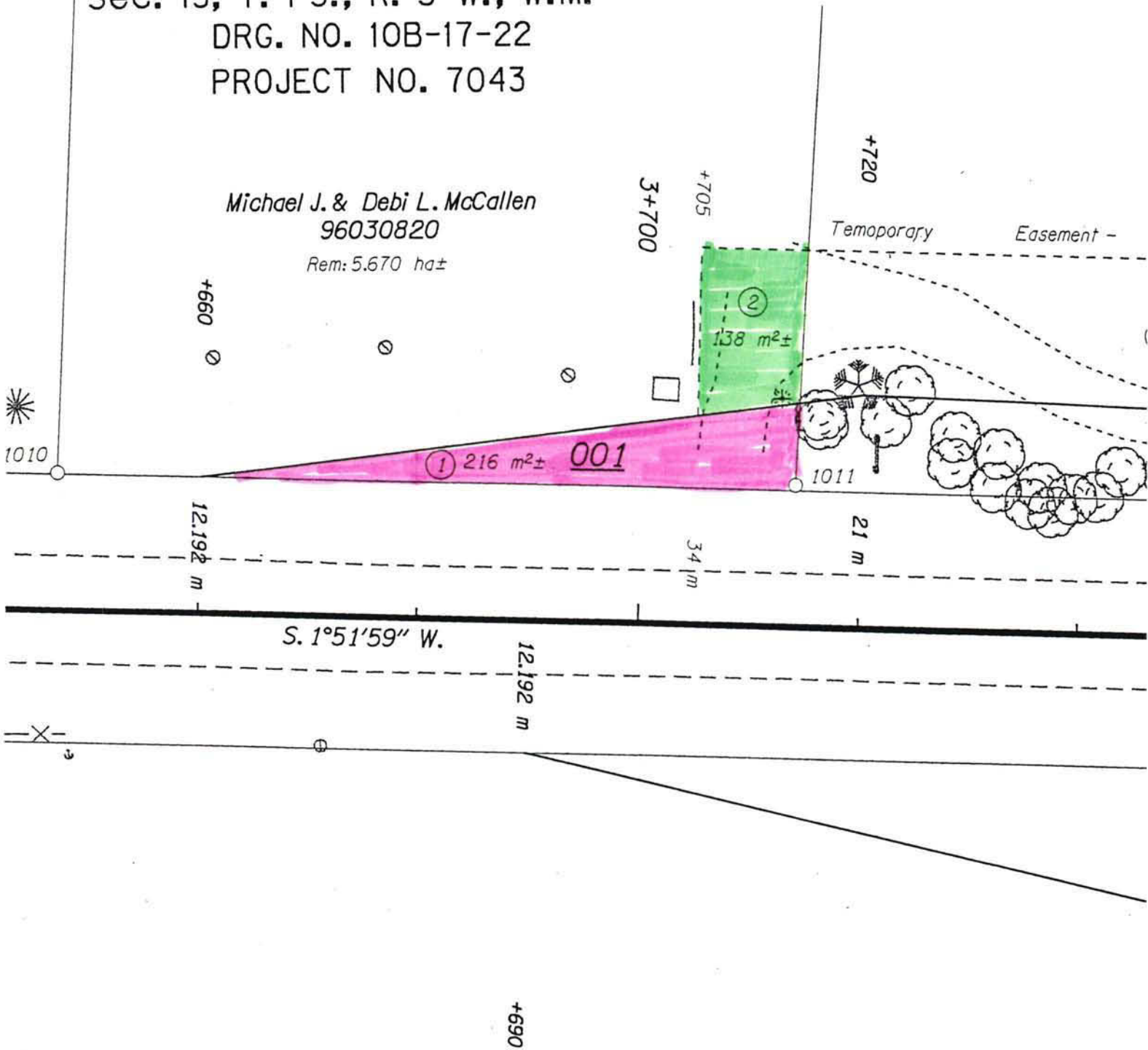


Exhibit B
RESOLUTION NO. 04-3402

Metro Easement Policy Criteria and Staff Findings

- 1) Provide for formal review of all proposed easements, rights of ways, and leases for non-park uses by the Regional Parks and Greenspaces Advisory Committee, the Regional Facilities Committee and the full Council. Notwithstanding satisfaction of the criteria set forth herein, the final determination of whether to approve a proposed easement, right of way, or lease is still subject to the review and approval by the full Metro Council.**

Staff Finding: Criterion has been satisfied through a review and approval process that includes formal easement application and approval from the Regional Parks staff. The full Council will hear the request.

- 2) Prohibit the development of utilities, transportation projects and other non-park uses within corridors or on sites which are located inside of Metro owned or managed regional parks, natural areas, and recreational facilities except as provided herein.**

Staff Finding: The applicant proposes to construct left and right refuge turn lanes on Highway 219 at Tongue Road and re-configure Metro's driveway connecting to Hwy. 219.

- 3) Reject proposals for utility easements, transportation right of ways and leases for non-park uses which would result in significant, unavoidable impacts to natural resources, cultural resources, recreational facilities, recreational opportunities or their operation and management.**

Staff Finding: The easement will have minimal impact on park or natural resource values. This easement will not have any impacts on natural or cultural resources, recreational facilities or opportunities.

- 4) Accommodate utility easements, transportation right of ways or other non-park uses when the Regional Parks and Greenspaces Department (the Department) determines that a proposed easement, right of way, or non-park use can be accommodated without significant impact to natural resources, cultural resources, recreational facilities, recreational opportunities or their operation and management; and that the impacts can be minimized and mitigated.**

Staff Finding: Meets criteria.

- 5) Require full mitigation and related maintenance, as determined by the Department, of all unavoidable impacts to natural resources, recreational facilities, recreational opportunities or their operation and management associated with the granting of easements, right of ways, or leases to use Metro owned or managed regional parks, natural areas or recreational facilities for non-park uses.**

Staff Finding: No mitigation is required given the minimal impact and benefit. Any disturbance will be re-seeded with native seed.

- 6) Limit rights conveyed by easements, right of ways, and leases for non-park uses to the minimum necessary to accomplish the objectives of any proposal.**

Staff Finding: The dimensions and terms of the easement are limited to accommodate the installation of the turn lanes and re-configuration of the driveway.

Exhibit B
RESOLUTION NO. 04-3402

- 7) **Limit the term of easements, right of ways and leases to the minimum necessary to accomplish the objectives of any proposal.**

Staff Finding: The permanent easement space limitations are the minimum needed to accomplish the project while minimizing impact on Metro property.

- 8) **Require reversion, non-transferable, and removal and restoration clauses in all easements, rights of ways, and leases.**

Staff Finding: The easement will include these terms.

- 9) **Fully recover all direct costs (including staff time) associated with processing, reviewing, analyzing, negotiating, approving, conveying, or assuring compliance with the terms of any easement, right of way, or lease for non-park use.**

Staff Finding: Metro staff assigned to this application has documented time and costs spent on this application and informed the applicant of the policy requiring reimbursement. Execution of the easement is subject to satisfaction of all expenses.

- 10) **Receive no less than fair market value compensation for all easements, right of ways, or leases for non-park uses. Compensation may include, at the discretion of the Department, periodic fees or considerations other than money.**

Staff Finding: Appraised value is determined to be \$650.00.

- 11) **Require full indemnification from the easement, right of way or leaseholder for all costs, damages, expenses, fines, or losses related to the use of the easement, right of way, or lease. Metro may also require insurance coverage and/or environmental assurances if deemed necessary by the Office of General Counsel.**

Staff Finding: The easement will include indemnification and insurance provisions.

- 12) **Limit the exceptions to this policy to: grave sales, utilities or transportation projects which are included in approved master/management plans for Metro regional parks, natural areas and recreational facilities; projects designed specifically for the benefit of a Metro regional park, natural area, or recreational facility; or interim use leases as noted in the Open Spaces Implementation Work Plan.**

Staff Finding: No exception requested.

- 13) **Provide for the timely review and analysis of proposals for non-park uses by adhering to the following process:**

- A. **The applicant shall submit a detailed proposal to the Department which includes all relevant information including but not limited to: purpose, size, components, location, existing conditions, proposed project schedule and phasing, and an analysis of other alternatives which avoid the Metro owned or managed regional park, natural area or recreational facility which are considered infeasible by the applicant. Cost alone shall not constitute unfeasibility.**

Exhibit B
RESOLUTION NO. 04-3402

Staff Finding: Applicant has submitted a detailed proposal including all required information.

- B. Upon receipt of the detailed proposal, the Department shall determine if additional information or a Master Plan is required prior to further review and analysis of the proposal. For those facilities, which have master plans, require that all proposed uses are consistent with the master plan. Where no master plan exist all proposed uses shall be consistent with the Greenspaces Master Plan. Deficiencies shall be conveyed to the applicant for correction.**

Staff Finding: No additional information is needed.

- C. Upon determination that the necessary information is complete, the Department shall review and analyze all available and relevant material and determine if alternative alignments or sites located outside of the Metro owned or managed regional park, natural area, or recreational facility are feasible.**

Staff Finding: No reasonable alternative for alignment outside the Metro natural area is feasible.

- D. If outside alternatives are not feasible, the Department shall determine if the proposal can be accommodated without significant impact to park resources, facilities or their operation and management. Proposals which cannot be accommodated without significant impacts shall be rejected. If the Department determines that a proposal could be accommodated without significant impacts, staff shall initiate negotiations with the applicant to resolve all issues related to exact location, legal requirements, terms of the agreement, mitigation requirements, fair market value, site restoration, cultural resources, and any other issue relevant to a specific proposal or park, natural area or recreational facility. The Department shall endeavor to complete negotiations in a timely and business-like fashion.**

Staff Finding: No significant negative impact on Metro property will occur.

- E. Upon completion of negotiations, the proposed agreement, in the appropriate format, shall be forwarded for review and approval. In no event shall construction of a project commence prior to formal approval of a proposal.**

Staff Finding: Construction is contingent upon approval and is scheduled to start April 1st, 2004.

- F. Upon completion of all Metro tasks and responsibilities or at intervals determined by the Department, and regardless of Metro Council action related to a proposed easement, right of way, or lease for a non-park use, the applicant shall be invoiced for all expenses or the outstanding balance on expenses incurred by Metro.**

Staff Finding: Metro costs have been documented and applicant will be billed for reimbursement.

- G. Permission from Metro for an easement or right-of-way shall not preclude review under applicable federal, state, or local jurisdiction requirements.**

Staff Finding: Criterion satisfied.

Exhibit C
RESOLUTION NO. 04-3402

**PERMANENT
RIGHT-OF-WAY EASEMENT**

METRO, a municipal corporation and political subdivision of the State of Oregon, Grantor, for the true and actual consideration of SIX HUNDRED FIFTY DOLLARS (\$650.00) does grant to the **STATE OF OREGON, by and through its DEPARTMENT OF TRANSPORTATION**, Grantee, its successors and assigns, a permanent easement to construct and maintain Oregon State Highway 219 over, across, and upon the surface of the property described as **Parcel 1 on Exhibit "A" dated July 11, 2003** attached hereto and by this reference made a part hereof (the "Permanent Easement"). The parcel of land described as **Parcel 1 on Exhibit "A" dated July 11, 2003** contains 216 square meters, more or less.

Grantor also grants to Grantee, its successors and assigns, a non-exclusive temporary easement for a work area for construction purposes over and across the property described as **Parcel 2 on Exhibit "A" dated July 11, 2003** (the "Temporary Easement"). The parcel of land described as **Parcel 2 on Exhibit "A" dated July 11, 2003** contains 138 square meters, more or less.

IT IS UNDERSTOOD that the Permanent Easement herein granted upon the property described as **Parcel 1 on Exhibit "A" dated July 11, 2003** shall be exclusive.

IT IS ALSO UNDERSTOOD that the Temporary Easement herein granted upon the property described as **Parcel 2 on Exhibit "A" dated July 11, 2003** does not convey any right or interest in the above-described Parcel 2, except as stated herein, nor prevent Grantor from the use of said property; provided however that such use does not interfere with the rights herein granted.

THIS EASEMENT SHALL NOT AFFECT THE ADDRESS TO
WHICH TAX STATEMENTS ARE SENT
RETURN TO OREGON DEPARTMENT OF
TRANSPORTATION
RIGHT OF WAY SECTION
355 CAPITOL STREET NE, ROOM 420
SALEM OR 97301-3871

Account No.: 1S21800 01402

Property Address: 4800 SW Hillsboro Highway

Grantee agrees to provide ten (10) days written notice to Grantor before commencing construction activities on the parcels of land described on **Exhibit "A" dated July 11, 2003**.

Grantee agrees to promptly restore and revegetate with native vegetation according to Grantor's specifications any ground surface disturbed by Grantee's construction activities upon the parcel of land described as **Parcel 2 on Exhibit "A" dated July 11, 2003**.

Grantee hereby releases Grantor and its successors and/or assigns, from responsibility for damage by third parties to any improvements made to the property described as **Parcel 1 on Exhibit "A" dated July 11, 2003** attached hereto.

Grantor covenants to and with Grantee, its successors and assigns, that Grantor is the owner of the parcels of land described on **Exhibit "A" dated July 11, 2003** and, with the exception of matters of record, will warrant the easement rights herein granted from all lawful claims whatsoever.

To the extent permitted by Article XI, Section 7 of the Oregon Constitution and by the Oregon Tort Claims Act, Grantee shall indemnify the Grantor against any liability for damage to life or property arising from Grantee's occupancy or use of said property of Grantor under this agreement, provided however, that Grantee shall not be required to indemnify the Grantor to the extent any such liability arises out of the wrongful act of the employees or agents of the Grantor.

Grantor and Grantee agree that this Permanent Easement is granted on the express condition that the Grantee use the property described as **Parcel 1 on Exhibit "A" dated July 11, 2003** solely for the purposes of installing, constructing and maintaining Oregon State Highway 219 thereon, including such renewals, repairs, replacements and removals thereof as may be from time to time required. If the above described property is ever used for another purpose by the Grantee without the express written permission of Grantor, or if the above described property ever ceases to be used for said purposes, the Grantor may re-enter and terminate the Permanent Easement hereby granted.

Grantor agrees that the consideration recited herein is just compensation for the property or property rights conveyed, including any and all damages to Grantor's remaining property, if any, which may result from the acquisition or use of said property or property rights.

In construing this document, where the context so requires, the singular includes the plural and all grammatical changes shall be made so that this document shall apply equally to corporations and to individuals.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS, BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

It is understood and agreed that the delivery of this document is hereby tendered and that terms and obligations hereof shall not become binding upon the State of Oregon Department of Transportation, unless and until accepted and approved by the recording of this document.

Dated this _____ day of _____, 20_____.

APPROVED AS TO FORM:

METRO, a municipal corporation and political subdivision of the State of Oregon

By: _____
Senior Assistant Metro Attorney

By: _____
Michael J. Jordan, Chief Operating Officer

State of Oregon)
 ss.
County of Multnomah)

Dated _____, 20_____. Personally appeared _____ who, being sworn, stated that he is the Chief Operating Officer of METRO, a municipal corporation and political subdivision of the State of Oregon, and that this instrument was voluntarily signed on behalf of said municipal corporation by authority of its Resolution No. _____, passed by its Council , on this _____ day of _____, 20_____.

Notary Public for Oregon

My Commission expires _____

Accepted on behalf of the Oregon Department of Transportation

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 04-3402 FOR THE PURPOSE OF GRANTING AN EASEMENT TO OREGON DEPARTMENT OF TRANSPORTATION FOR NON-PARK USE THROUGH METRO PROPERTY LOCATED IN HILLSBORO AT 4800 SW HILLSBORO HIGHWAY

Date: November 10, 2003

Prepared by: Laurie Wulf

BACKGROUND

Metro Regional Parks and Greenspaces occasionally receives requests for easements, leases and right-of-ways through property that has been acquired through Regional Parks and Greenspaces properties. These requests are reviewed and analyzed per guidance and policy established via Resolution 97-2539B, "For the Purpose of Approving General Policies Related to the Review of Easement, Right-of Ways, Leases for Non-Park Uses through Properties Managed by Regional Parks and Greenspaces Department" adopted by Council on November 6, 1997.

Metro has received and reviewed an easement application from Oregon Department of Transportation. The request meets all criteria set forth in the Metro Policy regarding easements, right-of-ways and leases for non-park uses. Oregon Department of Transportation is requesting a permanent easement of 2,325 square feet along Hillsboro Highway (Highway 219) and a temporary construction easement of 1,485 square feet along the permanent easement. The purpose of the easement is to improve the intersection of Highway 219 and Tongue Road, adding a left and right turn refuge lanes and straightening out the Highway to reduce traffic accidents. The temporary easement is to reconstruct the existing road approach that provides access to Metro property, as well as to the parcel to the south of Metro owned property.

ANALYSIS/INFORMATION

1. **Known Opposition:** No known opposition. The proposed route included governmental and public input.
2. **Legal Antecedents:** Resolution No. 97-2539B "For the Purpose of Approving General Policies Related to the Review of Easements, Right-Of-Ways and Leases for Non-Park Uses Through Properties Managed By The Regional Parks And Greenspaces Department."
3. **Anticipated Effects:** The easement will allow safer passage and turning from Highway 219 to Tongue Road.
4. **Budget Impacts:** Oregon Department Of Transportation will pay staff costs for processing this request. An appraisal was completed by J. Swan for the permanent easement at a cost of \$650.

RECOMMENDED ACTION

The Chief Operating Officer recommends that the Council grant the easement as requested.

Agenda Item Number 6.2

Resolution No. 04-3407, For the Purpose of Confirming the Appointments of Rick Sandstrom and Wayne Luscombe to the Metro Central Station Community Enhancement Committee.

Metro Council Meeting
Thursday, January 29, 2004
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF CONFIRMING THE) RESOLUTION NO. 04-3407
APPOINTMENTS OF RICK SANDSTROM AND WAYNE)
LUSCOMBE TO THE METRO CENTRAL STATION) Introduced by Council President
COMMUNITY ENHANCEMENT COMMITTEE) David Bragdon

WHEREAS, Metro Code Chapter 2.19.030, "Membership of the Advisory Committees," states that all members and alternate members of all Metro Advisory Committees shall be appointed by the Council President and shall be subject to confirmation by the Council; and,

WHEREAS, Metro Code Chapter 2.19.120, "Metro Central Station Community Enhancement Committee (MCSCEC)," provides for the MCSCEC; and,

WHEREAS, Metro Code Chapter 2.19.120(b)(1) sets forth representation criteria for Committee membership; and,

WHEREAS, vacancies have occurred in representation of the Forest Park Neighborhood Association and Friends of Cathedral Park Neighborhood Association to the MCSCEC; and,

WHEREAS, the Friends of Cathedral Park Neighborhood Association and the Forest Park Neighborhood Association submitted nominations to the Metro Council President; and

WHEREAS, the Council President has appointed Rick Sandstrom, a representative of the Friends of Cathedral Park Neighborhood Association, and Wayne Luscombe, a representative of the Forest Park Neighborhood Association, subject to confirmation by the Metro Council; now therefore,

BE IT RESOLVED, that the Metro Council confirms the appointments of Mr. Sandstrom and Mr. Luscombe to Metro's MCSCEC.

ADOPTED by the Metro Council this ____ day of _____, 2004.

David Bragdon, Presiding Officer

Approved as to Form:

Daniel B. Cooper, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 04-3407 FOR THE PURPOSE OF CONFIRMING THE APPOINTMENTS OF RICK SANDSTROM AND WAYNE LUSCOMBE TO THE METRO CENTRAL STATION COMMUNITY ENHANCEMENT COMMITTEE

Date: December 23, 2003

Prepared by: Karen Blauer

BACKGROUND

Two vacancies have occurred in the Metro Central Station Community Enhancement Committee membership. Metro Code Chapter 2.19.120, "Metro Central Station Community Enhancement Committee (MCSCEC)," provides for the MCSCEC and subsection 2.19.120(b)(1) sets forth Committee membership and representation criteria. Two vacancies in the MCSCEC membership currently exist due to term limits for the members representing the Forest Park Neighborhood Association and The Friends of Cathedral Park Neighborhood Association.

The Forest Park Neighborhood Association (FPNA) nominated Wayne Luscombe as its representative. Mr. Luscombe has been an active member of the FPNA Board and has shown interest in serving on the MCSCEC (see Attachment 1).

The Friends of Cathedral Park Neighborhood Associations (FCPNA) nominated Rick Sandstrom as its representative. Mr. Sandstrom is Chairman of the FCPNA and has indicated his interest in serving on the MCSCEC (see Attachment 2).

ANALYSIS/INFORMATION

1. **Known Opposition.** There is no known opposition to the appointments of Mr. Luscombe and Mr. Sandstrom to the MCSCEC.
2. **Legal Antecedents.** Chapter 2.19 of the Metro Code Relating to Advisory Committees; Section 2.19.120 provides for a Metro Central Station Community Enhancement Committee (MCSCEC) and sets forth guidelines for representation.
3. **Anticipated Effects.** Adoption of this resolution would confirm the appointments of Mr. Luscombe and Mr. Sandstrom to the MCSCEC.
4. **Budget Impacts.** There are no known costs associated with implementation of this legislation.

RECOMMENDED ACTION

David Bragdon, Council President, and Councilor Rex Burkholder, chair of the enhancement committee, recommends adoption of this resolution to confirm the appointment Mr. Luscombe and Mr. Sandstrom to serve on the Metro Central Station Community Enhancement Committee.

Resolution No. 04-3407
Attachment 1

December 13, 2003

Forest Park Neighborhood Assoc.

Arnold Rochlin, Vice Pres.
PO Box 83645
Portland, OR 97283
Rochlin2@earthlink.net
503 289-2657

David Bragdon,
Metro Council President
600 NE Grand Ave.,
Portland, OR 97232

Dear Mr. Bragdon:

Please accept the nomination of Wayne Luscombe from the Forest Park Neighborhood Association (FPNA) to the Metro Central Enhancement Committee. Wayne will replace Jennifer Allen whose term on the committee has expired. Our Board of Directors recommended this nomination at its last meeting.

Mr. Luscombe has been an active member of the FPNA Board for several years. He is very interested in the work of the Metro Central Enhancement Committee, and I'm sure he will be an involved and productive member.

The FPNA is pleased to work with Metro to improve the livability of our neighborhood. We look forward to projects that benefit our own and adjacent communities, which would not be possible without this Metro program.

Yours,



cc Rex Burkholder
Karen Blauer

COMMENTS:

Att: Karen Blauer

Nomination for Metro Central Enhancement Committee
 from FOREST PARK Neighborhood Association

NAME Wayne Luscombe DATE December 8, 2003

HOME ADDRESS: 464 NW Skyline Crest Rd, PORTLAND, OR. 97229
 STREET CITY STATE ZIP

BUSINESS ADDRESS: _____
 STREET CITY STATE ZIP

HOME PHONE: (503) 297-8698

BUSINESS PHONE: _____

FAX (503) 297-8698

E-MAIL: WLUSCOMBE @ AOL.COM

NEIGHBORHOOD FOREST PARK

THE FOLLOWING INFORMATION IS VOLUNTARY:

SEX: Male

ETHNIC ORIGIN _____

(METRO STRIVES FOR ETHNIC AND MINORITY BALANCE, AS WELL AS GEOGRAPHIC REPRESENTATION, IN ITS MEMBERSHIP COMPOSITION.)

SCHOOL (INCLUDE HIGH SCHOOL)	LOCATION	MAJOR OR DEGREE
<u>BA</u>	<u>University of Regina, Canada</u>	<u>Mathematics</u>
<u>BA (honors)</u>	<u>University of Regina, Canada</u>	<u>Geography</u>
<u>BEd</u>	<u>"</u>	<u>Mathematics</u>
<u>MA</u>	<u>University of Regina, Canada</u>	<u>Geography</u>
<u>Ph.D.</u>	<u>Simon Fraser University, Vancouver, Canada,</u>	<u>Geography</u>

LIST MAJOR EMPLOYMENT AND/OR VOLUNTEER ACTIVITIES, BEGINNING WITH MOST RECENT (INCLUDING ALL EXPERIENCES YOU BELIEVE TO BE RELEVANT):

The WORLD BANK - International Development

FOREST PARK NEIGHBORHOOD Association board member

TEN Thousand Villages - Volunteer

HAVE YOU VOLUNTEERED FOR ANY MINORITY ORGANIZATIONS?

EXPERIENCE, SKILLS OR QUALIFICATIONS YOU FEEL WOULD CONTRIBUTE TO A PUBLIC SERVICE APPOINTMENT:

- vast project development and financing experience
- ability to appraise, evaluate, and supervise ^{development} projects
- good communication and people skills
- Neighborhood Association Board experience (FOREST PARK NEIGHBORHOOD ASSOCIATION)

OUTLINE YOUR REASONS AND INTERESTS IN APPLYING FOR AN APPOINTMENT:

- nominated to metro ^{central} enhancement committee by FOREST PARK Neighborhood Association Board

DATE

KB:CLK
S:\REM\BLAUER\GRANTS\INPEC\2003 CONTRACT\APOINTM.FRM.DOC



METRO CENTRAL ENHANCEMENT COMMITTEE
APPOINTMENT INTEREST FORM

COMMENTS: MY NAME IS RICK SANDSTROM, AND I AM CHAIRMAN OF THE FRIENDS OF CATHEDRAL PARK NEIGHBORHOOD ASSOCIATION. PLEASE CONSIDER THE COMPLETION OF THIS INTEREST FORM AS MY INTENT TO BECOME THE NEXT FCPNA REPRESENTATIVE TO THE COMMITTEE.

SINCERELY,
RICK SANDSTROM

NAME RICK SANDSTROM

DATE: 12/14/2003

HOME ADDRESS: 8104 N. IVANHOE
PORTLAND OREGON 97203
STREET CITY STATE ZIP

BUSINESS ADDRESS: _____
STREET CITY STATE ZIP

HOME PHONE: 503-289-8082 BUSINESS PHONE: _____

E-MAIL: RIKZIG@COMCAST.NET

FAX _____

NEIGHBORHOOD: FRIENDS OF CATHEDRAL PARK

THE FOLLOWING INFORMATION IS VOLUNTARY:

SEX: M ETHNIC ORIGIN _____

(METRO STRIVES FOR ETHNIC AND MINORITY BALANCE, AS WELL AS GEOGRAPHIC REPRESENTATION, IN ITS MEMBERSHIP COMPOSITION.)

SCHOOL (INCLUDE HIGH SCHOOL) LOCATION MAJOR OR DEGREE
UNIVERSITY OF WASHINGTON SEATTLE PHD

LIST MAJOR EMPLOYMENT AND/OR VOLUNTEER ACTIVITIES, BEGINNING WITH MOST RECENT (INCLUDING ALL EXPERIENCES YOU BELIEVE TO BE RELEVANT):

CHAIRMAN: FRIENDS OF CATHEDRAL PARK NEIGHBORHOOD ASSOCIATION

HAVE YOU VOLUNTEERED FOR ANY MINORITY ORGANIZATIONS?

No

EXPERIENCE, SKILLS OR QUALIFICATIONS YOU FEEL WOULD CONTRIBUTE TO A PUBLIC SERVICE APPOINTMENT:

CHAIRMAN: FRIENDS OF CATHEDRAL PARK NEIGHBORHOOD ASSOCIATION

OUTLINE YOUR REASONS AND INTERESTS IN APPLYING FOR AN APPOINTMENT:

I AM INTERESTED IN NEIGHBORHOOD ISSUES AND BECAME INVOLVED IN THE NEIGHBORHOOD ASSOCIATION BECAUSE I BELIEVED THAT THE NEIGHBORHOOD HAD NO EFFECTIVE VOICE IN FRONT OF THE PORTLAND CITY COUNCIL. AFTER BEING INVOLVED FOR A NUMBER OF YEARS, I HAVE TO SAY THAT NOTHING HAS CHANGED MY ORIGINAL ASSESSMENT. NEIGHBORHOODS ARE INCREASINGLY MORE FRUSTRATED KNOWING THAT THEIR VOICES ARE NOT HEARD. AS A POSSIBLE CONSEQUENCE, PARTICIPATION AND MEMBERSHIP IN OUR ASSOCIATION IS DOWN. KNOWING THAT FCPNA HAS A REPRESENTATIVE ON THIS COMMITTEE, MAY SPUR SOME INTEREST IN THE ASSOCIATION. HOWEVER, TO ASSURE THAT FCPNA HAS A VOICE ON THE METRO CENTRAL ENHANCEMENT COMMITTEE, I OFFER MY NAME AS FCPNA'S REPRESENTATIVE TO THE COMMITTEE.

RICK SANDSTROM

DATE 12/14/2003

KB:CLK

S:\REMBLAUER\GRANTS\INPEC\2003 CONTRACT\APOINTM.FRM.DOC

Agenda Item Number 6.3

Resolution No. 04-3408, For the Purpose of Confirming the Reappointment of Leland Stapleton to the Metro Central Station Community Enhancement Committee.

Metro Council Meeting
Thursday, January 29, 2004
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF CONFIRMING THE) Resolution No. 04-3408
REAPPOINTMENT OF LELAND STAPLETON TO)
THE METRO CENTRAL STATION COMMUNITY) Introduced by: Council President
ENHANCEMENT COMMITTEE) David Bragdon
)

WHEREAS, Metro Code Chapter 2.19.030 states that all members and alternate members of all Metro Advisory Committees shall be appointed by the Council President, subject to confirmation by the Council; and,

WHEREAS, Metro Code Chapter 2.19.030 states that advisory committee members and alternate members are limited to two consecutive two-year terms; and,

WHEREAS, Metro Code Chapter 2.19.120 established the Metro Central Station Community Enhancement Committee (MCSCEC); and,

WHEREAS, Mr. Leland Stapleton has been nominated for a second term, is a member in good standing, is supported by the Northwest District Association, both the committee and the committee Chair, and has agreed to serve one additional term; now therefore,

BE IT RESOLVED, that Mr. Leland Stapleton is confirmed to serve on the Metro Central Station Community Enhancement Committee until his successors are appointed and confirmed in 2006.

ADOPTED by the Metro Council this ____ day of _____, 2004.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 04-3408, FOR THE PURPOSE OF CONFIRMING THE REAPPOINTMENT OF LELAND STAPLETON TO THE METRO CENTRAL STATION ENHANCEMENT COMMITTEE

Date: January 2004

Prepared by: Karen Blauer

BACKGROUND

Mr. Leland Stapleton's term of service on the Metro Central Station Community Enhancement Committee has expired. Mr. Stapleton has done an excellent job on the committee acting in the best interest of the enhancement program and the community at large. Therefore, Rex Burkholder, Chair of the Metro Central Station Community Enhancement Committee, was pleased to recommend the reappointment of Mr. Stapleton, representing the Northwest District Association, for a second two-year term.

ANALYSIS/INFORMATION

1. Known Opposition

None.

2. Legal Antecedents

Metro Code Chapter 2.19.030, "Membership of the Advisory Committees", and Metro Code Chapter 2.19.120, "Metro Central Station Community Enhancement Committee."

3. Anticipated Effects

Adoption of this resolution would reappoint Mr. Stapleton to the Metro Central Station Community Enhancement Committee.

4. Budget Impacts

None.

RECOMMENDED ACTION

The Council President recommends adoption of Resolution No. 04-3408 confirming the reappointment of Mr. Stapleton to the Metro Central Station Community Enhancement Committee.

Agenda Item Number 6.4

Resolution No. 04-3415, For the Purpose of Approving the Intergovernmental Agreement (IGA) with the City of Portland for Operating and Maintaining the Three Bridges and Trail Located in the Sellwood Section of the Springwater Corridor.

Metro Council Meeting
Thursday, January 29, 2004
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING AN)	RESOLUTION NO. 04-3415
INTERGOVERNMENTAL AGREEMENT (IGA))	
WITH THE CITY OF PORTLAND FOR)	Introduced by Michael Jordan, Chief
OPERATING AND MAINTAINING THE THREE)	Operating Office with the concurrence of
BRIDGES AND TRAIL LOCATED IN THE)	Council President David Bragdon
SELLWOOD SECTION OF THE SPRINGWATER)	
CORRIDOR)	

WHEREAS, the Springwater Corridor is a trail of regional significance, stretching for 22 approximately 22 miles from OMSI to Boring, passing through southeast Portland, Milwaukie, Gresham, and unincorporated sections of Multnomah and Clackamas counties; and

WHEREAS, the Sellwood Section of the Springwater Corridor is approximately 1.34 miles in length and starts as SE Umatilla (where the recently completed "Springwater on the Willamette Trail" ends) and heads south and southeast to the Three Bridges location, where it ends at the Union Pacific Railroad line; and

WHEREAS, more than 1 million people use the trail each year for recreational and commuter purposes; and

WHEREAS, the trail has been a priority for Metro Regional Parks and Greenspaces, and Metro Planning and Transportation for more than 10 years, and is a key priority in the Greenspaces Master Plan's Regional Trails System, and the Regional Transportation Plan (RTP); and

WHEREAS, Metro and the City of Portland have worked cooperatively for more than 10 years to complete the Springwater Corridor which includes: planning and design; public involvement activities; securing funding; acquisition of land and easement interests; and maintaining and/or land banking sections of the corridor; and

WHEREAS, Metro and the City of Portland have separately entered into an Intergovernmental Agreement ("the Three Bridges Agreement) that provides the terms and conditions for the planning, design, engineering and construction of the Springwater Corridor, including the bridges, within the Sellwood Section; now therefore

BE IT RESOLVED that the Metro Council approves the attached Intergovernmental Agreement (IGA) (Exhibit "A") and authorizes the Chief Operating Officer to sign the IGA, which designates the City of Portland to maintain the Three Bridges and Trail in the Sellwood Section of the Springwater Corridor.

ADOPTED by the Metro Council this _____ day of _____, 2004

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

INTERGOVERNMENTAL AGREEMENT
Springwater Corridor
Sellwood Section
Operations and Maintenance

This Intergovernmental Agreement ("Agreement"), dated this _____ day of _____, 2003, is by and between Metro, a metropolitan service district organized under the laws of the state of Oregon and the Metro Charter, located at 600 NE Grand Avenue, Portland, Oregon, 97232-2736 ("Metro") and the City of Portland, located at 1120 S.W. Fifth Avenue, Room 1302, Portland, Oregon, 97204 ("the City").

WITNESSETH:

WHEREAS, through various Intergovernmental Agreements, planning coordination, and joint grant applications, Metro and the City have been working cooperatively to promote the objectives of the Metro Bond Measure 26-26 OMSI to Springwater Corridor Trail Refinement Plan; and

WHEREAS, Metro and the City have acquired fee and easement interests along the Springwater Corridor Trail, portions of which are owned by Metro and are currently being constructed and managed by the City pursuant to several previous Intergovernmental Agreements between Metro and the City; and

WHEREAS, Metro has recently acquired, with the City's strong encouragement, certain additional parcels ("the Sellwood Section Parcels") of which the legal descriptions are described and attached hereto as Exhibit A, from the Union Pacific Railroad and Portland General Electric, which parcels help close the approximately 1.5 mile public ownership gap in the Springwater Corridor Trail between the Sellwood Bridge and current end of the Springwater Corridor Trail at the Union Pacific Railroad tracks, the 1.5 mile section herein referred to as the "Sellwood Section"; and

WHEREAS, Metro and the City have jointly secured federal transportation funding for the design and construction of Sellwood Section, over Johnson Creek, SE McLoughlin Blvd. and the Union Pacific Railroad tracks; and

WHEREAS, Metro and the City are separately entering into an Intergovernmental Agreement ("the Three Bridges Agreement") that will provide the terms and conditions for design, engineering, and construction of the Springwater Corridor Trail within the Sellwood Section; and

WHEREAS, Metro and the City have agreed that until the trail is constructed, the City will landbank the parcels in the Sellwood Section and that the City will manage, operate and maintain the Sellwood Section in accordance with the terms set forth in this Agreement; and

NOW THEREFORE, the parties hereby agree as follows:

AGREEMENT

A. Acquisition

1. In December 2001, Metro purchased the Sellwood Section Parcels from Union Pacific Railroad with Metro Open Spaces Bond Measure proceeds.

2. A map depicting the Sellwood Section Parcels is attached hereto as Exhibit "B" and incorporated herein by this reference.
3. Metro has purchased additional property from Portland General Electric within the Springwater Corridor generally and within the Sellwood Section specifically. Metro may negotiate in the future with PGE and others to purchase additional rights within the Sellwood Section. The City and Metro hereby agree that if Metro executes agreement(s) to purchase additional property within the Sellwood Section of the Springwater Corridor that Metro would like the City to landbank, manage, maintain, and operate the additional property under the terms of this Agreement, that Metro shall notify the City in writing in the form attached hereto as Exhibit C ("Notice of Acquisition"). The City shall notify Metro in writing if the City does not wish to accept such responsibilities for that property in accordance with this Agreement, using the City's best efforts to make this notification prior to the closing date for the acquisition. If the City has not so notified Metro within thirty (30) days of receiving Metro's Notice of Acquisition, then the City shall accept the additional property for management, maintenance and operation responsibilities in accordance with the terms and conditions of this Agreement.

B. Landbanking

1. Prior to constructing the Sellwood Section of the Springwater Corridor Trail, the City shall landbank the Sellwood Section Parcels as the term "landbank" is used in the Metro Open Spaces Implementation Work Plan, including but not limited to maintaining security of the Sellwood Section; providing additional fencing, gates, signs, and other measures as necessary to preserve or increase safety on the Sellwood Section and to aid in the prevention of illegal dumping; and to preserve and protect the Sellwood Section's natural resources, without unreasonably diminishing the Sellwood Section's potential as a transportation corridor.

C. Management, Maintenance and Operation of the Sellwood Section

1. The City or its agent or contractor shall manage, maintain, and operate the Sellwood Section in accordance with and in a manner consistent with this Agreement, Metro's Greenspaces Master Plan and the City's Springwater Corridor Trail Master Plan (collectively, "the Plans"), as well as with any governing easements and encumbrances, including PGE Transmission Line Easements and any other agreements Metro may enter in connection with purchasing additional properties or easement rights or otherwise. The Plans shall constitute the Resource Protection Plans for the Sellwood Section, as described in the Metro Greenspaces Master Plan.
2. Metro shall have the right to review and comment on any changes in the Plans relating to the management, maintenance, or operation of the Sellwood Section. Any changes in the Plans made or proposed by the City that relate to management, maintenance, or operation of the Sellwood Section shall not conflict with the guidelines set forth in this Agreement, in the Greenspaces Master Plan, or with the uses and restrictions described in the Open Spaces Bond Measure. The City shall give Metro written notice as soon as possible, but in any event no less than 90 days in advance of a proposal to amend the City's Plans where such amendment would alter the City's management, maintenance or operation of the Sellwood Section.
3. The City shall manage and maintain the Sellwood Section in perpetuity.

4. Metro grants to the City, and its officers, employees, agents and contractors, the right to enter the Property for the purpose of performing all activities reasonably necessary for the landbanking, management, maintenance and operation of the Sellwood Section Parcels.

D. Permits, Easements, Assessments, Coordination with Other Public Agencies

1. As stated in the Greenspaces Master Plan, by accepting the landbanking, operation, maintenance and management responsibilities for the Sellwood Section as set forth herein, the City agrees to be responsible for funding such activities with the City's own resources or with grants the City may obtain. The City's responsibility shall include responsibility for paying all taxes or assessments for the Sellwood Section, including the Sellwood Section Parcels.
2. The City shall be responsible for obtaining any permits or approvals required in connection with the management maintenance, or operation of the Sellwood Section including the Sellwood Section Parcels, and the City shall be responsible for paying all permit fees.
3. Unless mutually approved by Metro and the City in writing, any permits granted by the City to users of the Sellwood Section shall comply with the terms and limitations set forth in this Agreement and in the Plans. Except as otherwise provided herein or provided within the Three Bridges Agreement, prior to the completion of construction of the trail in the Sellwood Section, the City shall require any person whom the City invites to enter the Sellwood Section to sign a release agreement in a form acceptable to Metro.
4. The City shall be responsible for contacting and coordinating with other local, state or federal agencies or local property owners regarding any management, maintenance or operation issues that may arise with respect to the Sellwood Section.
5. All requests on or affecting the Sellwood Section Parcels (or any property owned by Metro) for property interests such as licenses, short-term leases, etc., having a term of less than one year, shall be evaluated and processed by the City using the City's "Policies and Procedures Governing Non-Park Uses Within Springwater Corridor" as adopted by the City by Ordinance # 166982 on September 22, 1993 and attached hereto as Exhibit D. All fees associated with the granting of these short-term interests shall be retained by the City. All requests on or affecting the Sellwood Section Parcels for property interests such as easements, rights of way, long-term leases, etc., having a term of greater than one year, shall be evaluated and processed by Metro using the Metro Easement Policy, Resolution No. 97-2539B, passed by the Metro Council on November 6, 1997, attached hereto as Exhibit E. All fees associated with the granting of these longer-term interests shall be retained by Metro.
6. Unless waived in writing by Metro, the City shall notify Metro a minimum of 60 days in advance prior to the City granting any rights it has in accordance with this Agreement to others in the Sellwood Section. Within 30 days of receiving such notice, Metro shall notify the City in writing if Metro objects to the City granting of property interests. Unless waived in writing by the City, Metro shall notify the City a minimum of 60 days in advance prior to Metro granting any rights it has in accordance with this Agreement to others in the Sellwood Section. Within 30 days of receiving such notice, the City shall notify Metro in writing if the City objects to Metro granting of property interests. Metro shall retain the right to grant or to deny the grant of any property right to others.

E. Public Involvement, Notification

1. The City shall be responsible for all public involvement and outreach activities, including, but not limited to, notification requirements of adjacent property owners and residents.

F. General Provisions

1. **Indemnification.** To the extent permitted by Oregon law, the City shall defend, indemnify and save harmless Metro, its officers, employees, and agents from and against any and all liabilities, damages, claims, demands, judgments, losses, costs, expenses, fines, suits, and actions, arising from or related to the City's negligence in management, maintenance or operation of the Sellwood Section in accordance with this Agreement. To the extent permitted by Oregon law, Metro shall defend, indemnify and save harmless the City, its officers, employees, and agents from and against any and all liabilities, damages, claims, demands, judgments, losses, costs, expenses, fines, suits, and actions arising from or related to Metro's negligence of its responsibilities for the Sellwood Section in accordance with this Agreement.
2. **Oregon Constitution and Tax Exempt Bond Covenants.** The source of funds for the acquisition of the Sellwood Section Parcels is from the sale of voter-approved general obligation bonds that are to be paid from ad valorem property taxes exempt from the limitations of Article XI, section 11(b), 11(c), 11(d) and 11(e) of the Oregon Constitution, and the interest paid by Metro to bond holders is currently exempt from federal and Oregon income taxes. The City agrees that it will take no actions that would cause Metro to be unable to maintain the current status of the real property taxes as exempt from Oregon's constitutional limitations or the income tax exempt status of the bond interest. In the event the City breaches this Covenant, Metro shall be entitled to whatever remedies are available to either cure the default or to compensate Metro for any loss it may suffer as a result thereof.
3. **Funding Declaration and Signage.** The City shall provide on-site signage informing the public that the City is managing the Sellwood Section. Metro will provide on-site signage which shall be installed by the City, stating that funding for the acquisition came from Metro Open Spaces Measure bond proceeds. The City shall also document in any publication, media presentation or other presentations, that funding for the acquisition came from Metro Open Spaces Measure bond proceeds. All signage shall be consistent with Metro guidelines for Open Spaces Projects.
4. **Termination for Convenience.** Metro and the City may, by mutual written agreement, jointly terminate all or part of this Agreement based upon a determination that such action is in the public interest. Commencing ten (10) years from the effective date of this Agreement, the City may terminate this Agreement unilaterally upon 360 days written notice to Metro for any reason deemed appropriate in the City's sole discretion.
5. **Law of Oregon.** This Agreement shall be governed by the laws of the state of Oregon, and the parties agree to submit to the jurisdiction of the courts of the state of Oregon.

6. **Notices.** All notices or other communications required or permitted under this Agreement shall be in writing, and shall be personally delivered (including by means of professional messenger service) or sent by fax and regular mail.

To Metro:

Jim Desmond
Director, Metro Regional Parks and Greenspaces
600 N.E. Grand Avenue
Portland, OR 97232-2736

Copy to:

Office of Metro Attorney
600 N.E. Grand Avenue
Portland, OR 97232-2736

To City:

Zari Santner
Director, Portland Parks and Recreation
1120 S.W. Fifth Ave. #1320
Portland, OR 97204

Copy to:

Office of City Attorney
1220 S.W. Fifth Ave
Portland, OR 97204

7. **Assignment.** Except as otherwise provided for herein, the parties may not assign any right or responsibility under this Agreement without prior written consent from the other party, except the parties may delegate or subcontract for performance of any of its responsibilities under this Agreement without prior written consent of the other party.
8. **Severability.** If any non-material covenant or provision in this Agreement shall be adjudged void, such adjudication shall not affect the validity, obligation, or performance of any other covenant or provision which in itself is valid, and the parties shall continue to perform within the surviving terms and requirements in accordance with applicable law and the intent of this Agreement.

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9. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties and supersedes any prior oral or written agreements or representations regarding the subject matter of this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties.

IN WITNESS WHEREOF, the parties hereto have set their hands on the day and year set forth above.

CITY OF PORTLAND

METRO

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

Approved as to form:

By: _____

Title: _____

Date: _____

Exhibits:

- Exhibit A Legal Descriptions of Sellwood Section Parcels
- Exhibit B Map of the Sellwood Section Parcels
- Exhibit C Form of Notice of Acquisition
- Exhibit D City of Portland Ordinance # 166982 "Policies and Procedures Governing Non-Park Uses Within Springwater Corridor"
- Exhibit E Metro Easement Policy and Metro Resolution No. 97-2539B

EXHIBIT A
Legal Descriptions of Sellwood Section Parcels

Exhibit A-1 of 6
Legal Descriptions of
Sellwood Section Parcels

PARCEL I:

All of Block 21, SELLWOOD, in the City of Portland, County of Multnomah and State of Oregon.

EXCEPTING THEREFROM the following:

A tract of land situated in Block 21, SELLWOOD, in the City of Portland, County of Multnomah and State of Oregon, more particularly described as follows:

Beginning at the Northeast corner of Lot 1, Block 21, SELLWOOD, in the County of Multnomah and State of Oregon; thence West along the North line of said Block 21, a distance of 103.0 feet to a point; thence South $37^{\circ}51'35''$ East a distance of 167.83 feet to a point on the East line of said Block 21; thence North along said East line a distance of 132.5 feet to the point of beginning.

PARCEL II:

Lots 3, 4, 5, 6, 7, and 8 Block 23, SELLWOOD, in the City of Portland, County of Multnomah and State of Oregon.

ALSO that portion of Lot 2, Block 23, SELLWOOD, in the City of Portland, County of Multnomah and State of Oregon described as follows:

Commencing at the Northwest corner of said Lot 2; thence East on the North boundary of said lot, 10 feet to a point; thence in a Southeasterly direction on a curve to the left having a radius of 1860.7 feet a distance of 74 feet more or less to a point in the South boundary of said lot, which is 66 feet from the Southwest corner thereof; thence West 66 feet to the Southwest corner of said lot; thence North 50 feet to the place of beginning.

Exhibit A-2 of 6
Legal Descriptions of
Sellwood Section Parcels
TRACT 1

A portion of Lot 2, Block 23, TOWN OF SELLWOOD, in the City of Portland, County of Multnomah and State of Oregon, lying within the Portland Traction Company right of way, said portion being more particularly described as follows:

Commencing at the Northwest corner of said Lot 2; thence East on the North boundary of said lot, 10 feet to a point which is 50 feet Northerly from, when measured at right angles to, the center line of said railroad right of way; thence Southeasterly on a 3° curve to the left, parallel with and 50 feet from said center line 74 feet, more or less, to the South boundary of said lot; thence West 66 feet to the Southwest corner of said lot; thence North to the place of beginning.

Exhibit A-3 of 6
Legal Descriptions of
Sellwood Section Parcels
TRACT 2

PARCEL 1: Lots 1, 2, 14, 15 and 16, Block "M" TOWN OF SELLWOOD, in the City of Portland, County of Multnomah and State of Oregon.

PARCEL 2: A portion of Lots 3, 4, 5, 12 and 13, Block "N", TOWN OF SELLWOOD, in the City of Portland, County of Multnomah and State of Oregon, described as follows:

Beginning at the Northeast corner of said Block "N"; being 30 feet South of an iron pipe at the intersection of the West line of SE 11th Avenue and the center line of SE Linn Street; running thence West on the South line of SE Linn Street, 200 feet; thence South on the East line of SE 10th Avenue, 100 feet to the Northwest corner of Lot 3 and the true place of beginning of the tract of land herein to be described; thence South $63^{\circ} 26'$ East 111.80 feet to the Southeast corner of Lot 3, which is also the Northwest corner of Lot 13; thence South $70^{\circ} 42' 40''$ East 105.95 feet to the West line of SE 11th Avenue; thence South on the West line of SE 11th Avenue to the North line of that alley established by Resolution No. 25034; thence West along the North line of said alley to the East line of SE 10th Avenue; thence North along the East line of SE 10th Avenue to the point of beginning.

PARCEL 3: All of Lot 6, a portion of Lots 5, 9 and 10, Block "O", and all of Lots 7 and 8, and a portion of Lots 6 and 9, Block "P", TOWN OF SELLWOOD, TOGETHER WITH a portion of East 12th Street, now vacated, in the City of Portland, County of Multnomah and State of Oregon, described as follows:

Beginning at the Northwest corner of said Block "O"; running thence South on the East line of SE 11th Avenue, 200 feet to the Northwest corner of Lot 5; thence South on the same line 9.87 feet to a point being 147.55 feet North of an iron pipe marking the Southwest corner of Block "O", said point also being the true point of beginning of the tract herein to be described; thence Southeasterly across Lots 5, 10 and 9 of Block "O", East 12th Street vacated, and part of Lot 6 of Block "P", on a curve with a radius of 1,879.53 feet, which is approximated by the following chords; South $72^{\circ} 29' 10''$ East 50 feet; South $74^{\circ} 00' 30''$ East 50 feet; South $75^{\circ} 32' 00''$ East 50 feet; South $77^{\circ} 03' 30''$ East 50 feet; South $78^{\circ} 35' 00''$ East 50 feet; South $79^{\circ} 54' 30''$ East 36.95 feet, a distance of 286.95 feet measured on the curve to a point on the Westerly extension of the South wall of the Sellwood Carhouse; thence East on said extension and wall across Lots 6 and 9 of Block "P", 171.73 feet to the West line of SE 13th Avenue; thence South along the West line of SE 13th Avenue to the Southeast corner of Block "P"; thence West along the South lines of Blocks "P" and "O", to a point in the center of vacated East 12th Street; thence North along the center of vacated East 12th Street to the Easterly extension of the North line of Lot 8, Block "O"; thence West along the Easterly extension of the North line of said Lot 8, and along the North line of Lots 8 and 7 of Block "O", to the West line of said Block "O"; thence North along the West line of said Block "O" to the point of beginning.

Exhibit A-4 of 6
Legal Descriptions of
Sellwood Section Parcels
TRACT 3

Lots 2 through 7, 9 and 16, Block "X", TOWN OF SELLWOOD, in the City of Portland, County of Multnomah and State of Oregon.

A portion of Lot 11, Block "X", TOWN OF SELLWOOD, in the City of Portland, County of Multnomah and State of Oregon, described as follows:

BEGINNING at the Northwest corner of said lot; thence South following the West boundary line thereof, 31 feet, more or less, to a point in said West boundary line which is 50 feet from the center line of the main railway track of the Portland Railway Light and Power Company, said point being on a radial line drawn from the center of said track; thence Northeasterly on a curve to the left of 2915 feet radius, parallel with and 50 feet distant from the said center line a distance of 104 feet to the Northeast corner of said Lot 11; thence West, following the North boundary line of said lot, 100 feet to the point of beginning.

Lots 10 and 15, Block "X", TOWN OF SELLWOOD, in the City of Portland, County of Multnomah and State of Oregon; EXCEPTING THEREFROM that portion conveyed to Bob Snair and Don Snair by instrument recorded November 10, 1988 in Book 2154, Page 2369, Multnomah County Deed Records, said portion being more particularly described as follows:

BEGINNING at the Southeast corner of Lot 15, Block "X", TOWN OF SELLWOOD; thence West 111.04 feet along the South line of Lots 15 and 10 to a point on Southerly line of Portland Traction Company's right of way; thence along the arc of a 2914.93 foot radius curve to the left a distance of 117.95 feet (the chord which bears North 70° 17' 35" a distance of 117.95 feet) to a point; thence South 39.77 feet along the East line of Lot 15 to the true point of beginning.

Exhibit A-5 of 6
Legal Descriptions of
Sellwood Section Parcels
TRACT 4

PARCEL I:

Lots 5 through 11, inclusive, Block 103, SELLWOOD, in the City of Portland, County of Multnomah and State of Oregon.

EXCEPTING THEREFROM that portion more particularly described as follows:

That portion of Lot 5, Block 103 lying Southeasterly of a line parallel to the originally located center line of the main track of the Portland Traction Company (Springwater Line) and distant 75 feet Southeasterly measured at right angles from the aforesaid.

PARCEL II:

A portion of Lots 15 through 18, Block 103, SELLWOOD, in the City of Portland, County of Multnomah and State of Oregon, more particularly described as follows:

Commencing at a point in the East boundary line of said Block 103, a distance of 5 feet South of the Northeast corner thereof; thence Southerly along said East boundary line a distance of 95 feet, more or less, to a line drawn East and West through the center of said block; thence West along said center line a distance of 255 feet; thence on a straight line to the point of beginning.

EXCEPTING THEREFROM that portion dedicated as highway, as described in Document, recorded May 26, 1902 in Book 293, Page 9, Multnomah County Deed of Records.

Exhibit A-6 of 6
Legal Descriptions of
Sellwood Section Parcels
TRACT 5

A portion of the George Wills Donation Land Claim, in Section 25, Township 1 South, Range 1 East of the Willamette Meridian, in the City of Milwaukie, County of Clackamas and State of Oregon, said portion being particularly described as follows, to-wit:

Commencing at a point 15.25 chains East and 14.43 chains North of the Southwest corner of said George Wills Donation Land Claim; which point is the Northwest corner of the land transferred to grantor herein by L.M. Atchinson by Deed recorded August 30, 1894 in Book "N", Page 559; running thence South along the West boundary of said land transferred by Atchinson 100 feet, to a stake; thence North 69° East parallel with and 75 feet Southerly from the center line of the railroad of The Oregon Water Power and Railway Company, as the same is located and established to the right of way of the Oregon and California Railway Company; thence Northwesterly along said right of way to the North line of said Atchinson Tract; thence West along said North line to place of beginning.

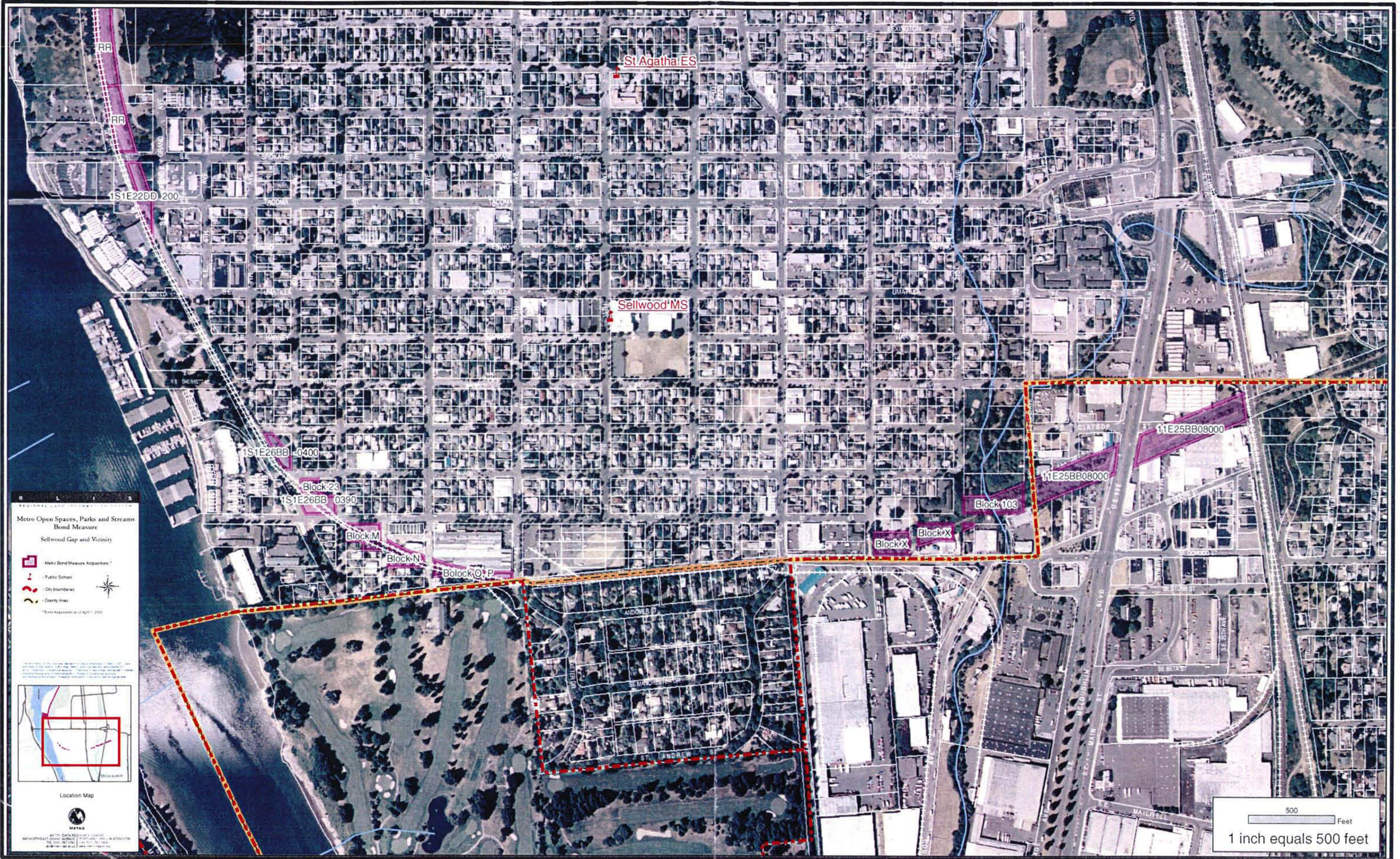
ALSO a portion of the said George Wills Donation Land Claim, described as follows, to-wit:

Commencing at a point in West boundary of said Donation Land Claim, 625.44 feet Northerly from the Southwest corner thereof and which point is 75 feet Northerly from, measured at right angles to, the center line of said O.W.P. & Ry. Co's Railway; thence North 63° 19' East parallel with and 75 feet from said center line, 1398 feet, to and across the right of way of the Oregon & California Ry. and to the West line of the plat of BURLEY; thence South 173.7 feet, more or less, to the North boundary line of said Atchinson Tract; thence West along the North line of said Atchinson Tract 238.92 feet; thence South 34 feet to a point which is 75 feet Southerly from, measured at right angles to, said center line of railroad; thence South 63° 19' West, parallel with and 75 feet from said center line 1127 feet to a point in West boundary of said Donation Land Claim, 156.38 feet South of beginning; thence North to beginning.

EXCEPTING THEREFROM that portion conveyed to the State of Oregon, by and through its Department of transportation, Highway Division, by instrument recorded March 9, 1990 as Recorder's Fee No. 90-10502, Clackamas County Deed Records.

AND FURTHER EXCEPTING THEREFROM that portion lying within the Southern Pacific Railroad right of way.

EXHIBIT B
Map of Sellwood Section Parcels



Metro Open Spaces, Parks and Streams Bond Measure
Sellwood Gap and Vicinity

- Metro Bond Measure Acquisitions
- Public School
- City boundaries
- County lines

*Bond Acquisitions as of April 1, 2003

Location Map

METRO
METRO DATA REQUIREMENTS
MINIMUM SCALE: 1:50,000
DATE: 07/02/03
FILE: 031103.DWG
DRAWN BY: J. HARRIS
CHECKED BY: J. HARRIS

500 Feet
1 inch equals 500 feet

EXHIBIT C
Notice of Acquisition

_____, 2003
City of Portland
Jim Sjulín
Portland Parks and Recreation
1120 S.W. Fifth Ave. #1320
Portland, OR 97204

Re: Acquisition of Property along Springwater Corridor – Sellwood Section

Dear Mr. Sjulín:

Pursuant to the Metro Open Spaces Bond Measure 26-26, and the Intergovernmental Agreement between Metro and the City dated _____, 2003, attached hereto (“Intergovernmental Agreement”), this shall serve as notice of acquisition of the following property along the Springwater Corridor:

[Property Address], in the City of _____, County of _____ and State of Oregon,
being more particularly described in Exhibit 1 attached hereto (“the Property”).

Pursuant to the Intergovernmental Agreement, Metro requests that the City manage this Property pursuant to the terms of the Intergovernmental Agreement. Please notify Metro in writing if the City does not wish to accept management responsibility for this Property. As set forth in the Intergovernmental Agreement, if the City does not so notify Metro within thirty (30) days of receipt of this letter, the City shall be deemed to have accepted the new Property for management, maintenance, and operation in accordance with the terms and conditions of the Intergovernmental Agreement.

If you have any questions, please do not hesitate to contact me at 503/797-1914.

Sincerely,

Jim Desmond
Director, Metro Parks & Greenspaces

cc: Mel Huie

EXHIBIT D
City of Portland Ordinance # 166982
Policies and Procedures Governing Non-Park Uses Within Springwater Corridor

ORDINANCE No. 166982

*Adopt Portland Parks and Recreation Policies and Procedures Governing Non-Park Uses within Springwater Corridor. (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

1. On November 12, 1992, Council adopted the Springwater Corridor Master Plan (Ordinance No. 166001) to set the direction for development of the Springwater Corridor into the premier urban recreation and alternative transportation corridor in the State of Oregon with an expected annual user count of over 400,000.
2. The Master Plan calls for a separate set of policies and procedures to outline the details of property management for the Springwater Corridor and their presentation to Council for consideration and adoption.
3. The unique history and linear character of Springwater Corridor requires written policies and procedures for reference by City staff and potential applicants for non-park use of the land.
4. In addition to the public recreation and alternative transportation use, the long term benefit of these policies and procedures will be the preservation and maintenance of the linear integrity of the Corridor for potential future rail service and its continuing use as a utility corridor.

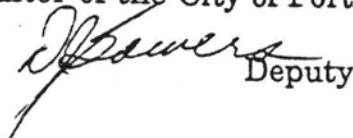
NOW, THEREFORE, the Council directs:

- a. Based on the above findings, the Portland Parks and Recreation Policies and Procedures Governing Non-Park Uses within Springwater Corridor be adopted to govern non-park uses and activities within the Springwater Corridor.
- b. The Commissioner in Charge of Parks and Recreation is authorized to amend the policies and procedures without further approval of Council.

Section 2. The Council declares that an emergency exists because the regulated use of the Springwater Corridor will preserve its use and enjoyment as a public park and provide the greatest degree of protection to the land and the recreational users of Springwater Corridor. This ordinance shall be in force and effect from and after its passage by the Council.

Passed by the Council, SEP 22 1993

Commissioner Hales
Susan Hathaway-Marxer
September 14, 1993

BARBARA CLARK
Auditor of the City of Portland
By  Deputy

9.17.93

CITY OF PORTLAND
PORTLAND PARKS AND RECREATION
POLICIES AND PROCEDURES
GOVERNING NON-PARK USES
WITHIN
SPRINGWATER CORRIDOR

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CITY OF PORTLAND
PORTLAND PARKS AND RECREATION
POLICIES AND PROCEDURES
GOVERNING NON-PARK USES
WITHIN
SPRINGWATER CORRIDOR

SECTION I

PURPOSE STATEMENT

This document establishes policies and procedures governing non-park uses of the Springwater Corridor and includes, as well, construction and maintenance standards for approved facilities.

Portland Parks and Recreation seeks first and foremost to provide the greatest degree of protection to the land and the recreational users of Springwater Corridor. The regulated use of the Corridor will preserve its use and enjoyment as a public park with trails, natural resource areas and picnic and rest areas.

In addition to the public recreation use, the long term benefit of these policies and procedures will be the preservation and maintenance of the linear integrity of the Corridor for potential future rail service and its continuing use as a utility corridor.

The policies herein are aimed at implementing the goals contained in the Springwater Corridor Master Plan adopted by City Council on November 12, 1992, including:

1. Foster a safe and inviting environment for the widest possible array of user groups,
2. Enhance and preserve the natural resources of the Corridor,
3. Preserve the linear integrity of the Corridor and encourage responsible use of the surrounding area,
4. Sustain use of the Corridor for utility purposes, and potential future restoration of rail service.

Some of the specific objectives established to achieve the Master Plan goals include Parks' intention to:

1. Inform prospective non-park users, other City bureaus and government entities and the public, in general, of the general policies of Portland Parks and Recreation with respect to non-park uses of the Springwater Corridor.
2. Minimize inconvenience to park patrons.
3. Minimize damage to park land and facilities.
4. Shift legal liability to non-park users.
5. Establish and define standards for construction and restoration.
6. Discourage unnecessary encroachments.
7. Allow for the fair and uniform administration of the licensing program, and
8. Recover its administrative costs and receive appropriate compensation for non-park use of park property.

SECTION II

POLICY ON EASEMENTS AND LICENSES

The City of Portland adopts the following general policy statements to guide Portland Parks and Recreation (Parks) in the approval and granting of requests for non-park uses within the Springwater Corridor:

A. General Policy Statements

1. Presumption of Best Use

The Springwater Corridor was acquired for use and benefit as a park and regional trail facility. Park, trail and related recreational uses shall be deemed to be the paramount uses of the Springwater Corridor property.

2. Non-Park Use

Non-park use is defined as any use of the real property under the jurisdiction of Parks for other than park, trail, or recreation purposes. See Section VII Supplemental Documents, A. Examples of Non-Park Uses.

3. Policy Subject to Outstanding Rights

Springwater Corridor is covered by an interim trail use/railbanking designation under Section 8 (d) of the National Trails System Act, 16 U.S.C. §1247 (d). Any non-park uses granted shall be considered subject to pre-existing rights and interests held by others, including but not limited to the federal government as a result of grant assistance. When required, Parks shall obtain federal government approval prior to the granting of non-park uses. To the greatest extent practicable, Parks will give priority for non-park uses to existing licensees and other users, including but not limited to the Cities of Gresham and Milwaukie, Multnomah County, Clackamas County and the State of Oregon.

4. Policy Subject to Prior Commitments

This policy shall not serve to terminate legally existing non-park uses or to invalidate prior commitments to allow non-park uses but shall take effect with respect to any renewals following the expiration of legally existing uses or commitments. Further, Parks reserves the right to apply its policies, procedures and regulations to existing non-park uses at the earliest renewal or negotiation of an agreement.

5. Exceptions for Parks' Needs

While Parks will endeavor to follow these policies in all cases, it shall not be obligated to follow all of the conditions stated herein when easements or other out-conveyances are required in order to obtain utility services or roadways to serve park needs or Springwater Corridor.

6. Minimum Rights

Non-park rights and uses granted shall be the minimum necessary to reasonably accomplish the objectives of each specific request.

7. Minimum Term

The term of licenses, easements and other approvals shall be the minimum necessary to satisfy the needs of each specific request.

8. Granting of Interest in Land

Generally, Parks will not convey title or easement rights to the Springwater Corridor property. In most instances, revocable licenses will be granted for a specified period of time. Parks will conform its grants to any applicable Federal government requirements.

9. Reversionary Clause

Easements or other instruments which convey an interest in the Springwater Corridor shall contain reversionary clauses which provide that rights or interests granted shall revert to Portland Parks and Recreation in the event of abandonment or termination of use by the grantee or in the event that Springwater Corridor property is returned to railroad use.

10. Compensation

The granting of non-park rights and uses in the Springwater Corridor shall not be made without just compensation. Parks may establish procedures and guidelines for determining appropriate compensation. It shall be Parks policy to recover 100% of the costs of administering non-park uses and to preserve the total value of Parks assets. Parks reserves the right to accept alternative consideration in lieu of cash compensation.

11. Liability Requirements

All legal liability resulting from the interest or use granted by Parks shall be assumed by non-park users. When appropriate, Parks may require that the grantee/licensee maintain liability insurance. A Certificate of Insurance certifying coverage shall be maintained on file with the City Auditor. The insurance shall provide that the insurance shall not terminate or be canceled without thirty (30) days written notice first being given to the City Auditor and shall name the City of Portland, its officers, agents, and employees as additional insureds. The adequacy of the insurance shall be subject to the approval of the City Attorney.

12. Bonding

Easements, licenses or other instruments granting non-park interests or uses in the Springwater Corridor shall require licensees/grantees to provide assurances satisfactory to Parks and subject to approval of the City Attorney for the timely and proper completion of any work to be performed on park land. Parks, in its sole discretion, shall determine the form of assurance.

13. Roads and Surface Utilities

a. Except as required for park purposes, no highways, streets, roads or overhead utilities, including but not limited to overhead electric transmission lines, except as provided to Portland General Electric from Portland Traction Company by Easement dated April 23, 1953, or its replacement document, shall be approved through the Springwater Corridor unless:

(1) Parks has determined that there is an absolute need for the road or surface utility; and

(2) Parks has determined that there is no feasible and prudent alternative to the use of the Springwater Corridor property for such road or surface utility; and

(3) Parks has determined that all possible planning has been carried out to minimize adverse and harmful effects to the Springwater Corridor which might result from such roads or surface utilities; and

(4) In Parks' sole discretion there are compelling public interests served by permitting the requested use. For public right of way crossings, Parks will consult with the owner of the right of way to insure that any crossing deemed necessary will have minimum impact on Springwater Corridor and its users.

14. Maintenance Requirements

Instruments granting non-park rights and uses in the Springwater Corridor shall require the licensee/grantee to provide adequate maintenance of land or any structures during the life and use of same. In the event Parks determines that it is impracticable for a grantee to maintain a facility or to ensure maintenance over a long period of time, Parks may require and accept from the grantee an appropriate maintenance/replacement fund which Parks shall place in escrow to cover future maintenance or replacement costs. Routine maintenance to public right of ways by the owner is encouraged and shall not require the written approval of Parks.

15. Restriction on Expansion or Reconstruction

Instruments granting non-park rights and uses in the Springwater Corridor shall not allow the expansion, upgrading or reconstruction of structures or improvements of facilities without the written approval of Parks. Such change in use may require separate or additional licenses. Parks reserves the right to determine if a separate or additional license is necessary.

16. Restoration of Surface Conditions

Instruments granting non-park rights and uses in the Springwater Corridor which involve land-disturbing activities shall reserve to Parks the right to prescribe the final grade and/or conditions, including but not limited to trail and planting restoration, to be established following any construction activities.

17. Locations of Utility Crossings

Generally, any utility which crosses the Springwater Corridor shall do so at a location where the most direct route across the Corridor occurs or where the minimum adverse impact is sustained. Parks reserves the right to require crossings at locations determined by Parks to preserve maximum benefit for recreational users of the Corridor. Generally, Parks prefers that utilities be placed within or adjacent to road rights-of-way or adjacent to other utility crossings. Linear runs shall be permitted in extraordinary cases only; such facilities are deemed to have a substantial and negative effect on the value and usefulness of the Corridor.

18. Application

Persons desiring non-park uses shall apply to Parks for permission to use Springwater Corridor for non-park purposes. An application for non-park uses in the Springwater Corridor shall be considered only after the applicant has submitted satisfactory information which will allow Parks to determine the extent and impact of the use requested. Parks shall establish standards, criteria, guidelines, procedures and forms for receiving, reviewing and acting on applications for particular non-park uses of the Springwater Corridor. Parks shall deny non-park uses which, in its sole discretion, will adversely impact Park users.

19. Administration of Easements and License Program

The Property Manager for Parks shall have the day to day responsibility and authority to administer this policy and is authorized to enter into negotiations on behalf of Parks regarding the general administration of non-park use of the Springwater Corridor. Parks' Chief Planner and the Superintendent of Park Operations shall be consulted and will approve or deny the request for non-park use. Licenses, easements or other instruments for a term of more than one year may be granted by the City Council at the request of the Director of Portland Parks and Recreation and the Commissioner in Charge of Parks and Recreation.

20. Recordation of Documents

When considered appropriate by Parks, easements, licenses, and/or other instruments granting non-park uses shall be recorded in appropriate county land records.

21. Alignment and Surface Prerequisites

It shall be the policy of Parks that the primary (paved) trail shall generally follow the grade and alignment of the original railroad right-of-way. In accordance with the Master Plan, utilities shall follow the shortest feasible route (cross Springwater Corridor at right angles), be placed within public

roadways, be placed underground and installed by boring or tunneling unless determined by Parks to be unfeasible. Generally, surface structures are prohibited.

22. Conversion

Requests for non-park use involving the granting of permanent interests in or substantial impacts on land within Springwater Corridor which were developed or are planned to be developed with financing from state or federal grant funds are considered "conversions" and are subject to review and approval by the grant agencies. In addition, such projects are subject to "replacement land" requirements whereby the non-park user will be required to provide Parks with fee interest in suitable land of at least equivalent size, value and usefulness within the same governmental jurisdiction.

SECTION III

APPLICATION AND LICENSING PROCEDURE

1. Application for Non-Park Use

- * Submit written application form (with construction plans, methods & schedule)
- * Submit map and photographs of area
- * Submit \$100.00 processing fee

2. Parks Review and Analysis

- * Review request/application and supporting materials
- * Check existing agreements, adjacent land uses and zoning for potential conflicts
- * Develop recommendation for compensation
- * Staff approval, conditional approval or denial

3. Prerequisites to Agreement

- * Parks management approval
- * Federal, state and local government review, where appropriate
- * PGE approval, where appropriate.
- * Parks approval of construction plans, methods & schedule.

4. Agreement

- * City prepares document
- * User prepares and submits exhibits (maps, drawings, etc.)
- * User signature and submission of insurance certificate
- * City Attorney approval
- * City Council approval, if appropriate
- * User acceptance of City's conditions
- * User payment of fees

5. Property Management

- * Site inspections
- * Submission and review of as-built plans
- * Monitor on-going activity for compliance
- * Contract enforcement

SECTION IV

ADMINISTRATION FEES

A. Purpose

1. The purpose of administration fees is to recover 100% of Parks' costs and expenses incurred in connection with administering non-park activities and uses, including staff costs, overhead and out-of-pocket expenses.

2. For purposes of imposing administration fees, a license project generally will be deemed to have been completed when active use of the Springwater Corridor property has ceased and all restoration and outstanding implementation actions are completed. For a project involving construction on the Springwater Corridor, this generally would occur simultaneously with the final inspection and approval by the City of Portland.

B. Determination of Fees

1. It is the policy and intention of Parks that each non-park user pay the costs and expenses directly attributable to its project. Administration costs and expenses will be accounted for in two principal categories:

- a. Staff costs and overhead; and
- b. Out-of-pocket expenses.

c. The Springwater Corridor Property Manager is authorized to negotiate and approve lump sum, one-time administration fees for projects of a routine or low-risk (in terms of predictability of Parks' expenses) nature, provided the fees so established reflect the best estimate, based on experience, of the administration costs and expenses Parks will incur. The Springwater Corridor Property Manager will document such determinations. Such pre-determined fees shall no longer prevail if the nature or scope of the project changes materially or if Parks is required to assume or perform activities, work or services (such as contract enforcement or problem solving) not contemplated when the negotiated fees were established.

2. After completion of a license project, administration fees will not usually be imposed for ordinary, routine and ongoing activities (such as maintaining utility location records, mowing around drainage structures, maintaining use fee records and supervising minor maintenance activities of the licensee) required of Parks in connection with the licensee's passive use and occupancy of the Springwater Corridor property. However, Parks reserves the right to impose additional administration fees at any time when significant unplanned actions by Parks become necessary by virtue of Licensee's use.

SECTION V

USE FEES

A. Principal Factors

Use fees shall be based on factors which impact the Springwater Corridor property, park use, park patrons and land values and land rights. Principal factors include:

1. Real Estate Value of Springwater Corridor property or value of adjoining lands.
2. Duration (term) of use and impacts.
3. Area (size) of park property affected.
4. Nature of non-park use and its relationship to fee ownership.
5. Nature of impact on property, park users and operations.
6. Severity of disturbance.

Generally, use fees shall be based on the highest supportable value as determined by sound, uniformly applied valuation methods and principles.

Use fees for such qualifying public and quasi-public projects may be discounted when the project occupies certain areas of limited park usability, for example, a road right-of-way.

Use fees shall be in the form of annual or other periodic payments when park property is occupied for private, profit-motivated purposes generating ongoing revenues; except Parks reserves the right to enter into contracts requiring one-time use fee payments, which reflect the present value of the long-term use, when deemed by Parks to be in its best interest.

At its sole discretion, Parks may make downward adjustments in computing use fees when it determines that substantial enhancements to the Springwater Corridor or other benefits will be derived by Parks as a result of licensee's project.

Use fees may include an additional assessment when a non-park use results in substantial impacts adversely affecting the Springwater Corridor property value, the quality of the recreation/park experience of users, maintenance and operational activities of Parks and other elements relating to the usability and function of the Springwater Corridor.

Parks reserves the right to negotiate lump-sum or other special use fee arrangements when projects involve multiple uses or other complex circumstances.

B. Calculation of Fees

1. Application of Real Estate Values

The land value to be considered in any given instance shall be the value of the affected Springwater Corridor property or the value of equivalent nearby property, whichever is greater.

2. Long-Term Use Fee Considerations

a. Parks first will establish a present value for a given long-term use. If payments will apply to that use, Parks will convert the long-term value to an annual or periodic fee.

b. Long-term non-park use values (expressed in terms of percent of real estate value) to be used to guide Parks in making license fee determinations are:

(1) Overhead use	75%
(2) Surface	100%
(3) Sub-surface	50%

c. Long-term uses may be viewed as easement interests, and corresponding long-term use values may be determined much the same as values for easement rights. In cases where licenses are under consideration, a slight downward adjustment from an easement value may be made, reflecting the right of cancellation of licenses. Frequently the long-term-use value will be expressed as a function of the real estate value (example -- 75% of fair market value), or reduced to a square-foot value.

d. Among the criteria to be considered in establishing long-term values are (these are not necessarily mutually exclusive):

- (1) Size of area permanently occupied.
- (2) Size of land area disturbed.
- (3) Degree of land disturbance (intensity).
- (4) Degree of ongoing user disturbance.
- (5) Permanent physical damage to Springwater Corridor lands and facilities.
- (6) Planned duration of the use/activity.
- (7) Perceived duration of the use/activity.
- (8) Volatility of the non-park facility (e.g. natural gas pipeline, etc.).

- (9) Ease of relocation of the non-park facility.
- (10) Level of facility operator's ongoing activity (maintenance).
- (11) Visual/aesthetic impact.
- (12) Impact on existing or future recreational use or opportunity.
- (13) Location in an area of limited park usability.
- (14) Necessity versus convenience.
- (15) Depth of underground facilities.
- (16) Parks assumption of new maintenance/operation liabilities.
- (17) Parks assumption of new legal liabilities.

3. Short-Term Considerations

a. The calculation of non-park use fees shall include consideration of any short-term impacts which may be greater than the ongoing impact of the use once it is in place. Such short-term impacts may arise when there is a high degree of disturbance to the land or where the project disturbs or otherwise inconveniences Springwater Corridor users. This is most likely to occur when the project involves construction.

b. Parks will establish a value for the short-term use/occupancy/disturbance of any additional property, using the same principles and methods used to value long-term occupancy. When short-term use areas overlap long-term use areas, appropriate adjustments will be made in computing the use fees.

4. Annual or Periodic and Short-Term Use Fees

Annual or periodic and short-term use fees will be calculated as a fraction or percentage of the corresponding long-term use fee for that type of use. Annual fees will be ten percent (10%) per year of the long-term use fee. Monthly fees will be one and one-half percent (1.5%) per month of the long-term use fee. Parks may engage real estate or financial advisors to assist in establishing real estate values and long-term use fees.

5. Severity

The factor of severity can occur when a non-park use or activity is so overwhelming and extensive that it permanently disrupts or destroys the value and usefulness of the Springwater Corridor property, or severely affects the quality of the recreation experience for the Springwater Corridor users, or creates severe new burdens on Parks. When Springwater Corridor property is severed or the aesthetic qualities of the property are destroyed, Springwater Corridor users are permanently

inconvenienced, and new legal or operating liabilities are imposed upon Parks. Parks may require applicant to provide the cost of designed alternative locations.

6. Determination of Areas Affected

By definition, the space occupied shall encompass the area occupied by or reserved for the non-park use and/or the construction limit line. In the case of utilities, the area to be used in computing use fees shall reflect the usual easement width reserved by the utility operator in similar conditions over private land including area to be used for maintenance access. Where utilities are required to be installed and maintained by means of boring or tunneling, Parks may define a license area width narrower than the usual width required for open cut installations. In no event shall the width of a utility facility be deemed less than ten feet.

7. Adjustment for Project Occupying Area of Limited Park Usability

Parks may make a downward adjustment in the level of the use fee for any qualifying facility installed within an area or space of substantially limited usefulness to Parks. Examples would be the placement of facilities within an existing highway right-of-way.

SECTION VI

PROVISION FOR SINGLE LICENSE FOR MULTIPLE FACILITIES

1. Provisions: Subject to the Discretion of Parks:

a. License shall cancel, supersede and replace all existing licenses, leases and other agreements and instruments granting rights and privileges to a single user for use of the Springwater Corridor property.

b. License shall identify, describe and authorize all existing facilities and specify applicable annual or periodic payments or one-time use fees for each facility.

c. License shall provide for inclusion of future facilities, subject to specific approval of Parks. Approval of future facilities shall be made according to policies, criteria, standards and use fees in effect at the time request for approval is made.

d. License shall contain an agreement by Licensee to promptly reimburse Parks for all administrative costs incurred by it in connection with the administration and oversight of the license and corresponding covered projects by Licensee.

e. License shall contain general criteria for Licensee's application for future uses (intended to streamline the process).

f. License shall contain minimum standards for construction, installation, maintenance and operational activities (including use of vehicles and equipment) covering approved (existing uses).

g. License shall contain minimum standards for restoration of the Springwater Corridor property and improvements but subject to change at the discretion of Parks with respect to future projects.

h. License shall contain provisions for periodic adjustment of fees and payments.

i. License shall provide for removal of any facility at the discretion of the Licensee, with the cancellation of the license with respect to that facility, and a corresponding prorating of any payment (but with no adjustment in any one-time use charge).

j. License shall contain a series of facility inventory sheets with corresponding plats, one for each licensee facility, with new (future) facilities being incorporated by added sheets/plats signed by both the Licensee and Parks and representing amendments to the master license. In addition, a master schedule, listing each project by a code number (corresponding to the inventory sheet and plat), and its respective annual rental amount, and with vacant columns for future fee adjustments, would serve as a summary page.

k. License shall be effective for no more than 20 years.

SECTION VII

SUPPLEMENTAL DOCUMENTS

A. Examples of Non-Park Uses (Applies to Both Public and Private Uses)

- * Agricultural use
- * Sanitary sewer facilities
- * Water service facilities
- * Gas line service facilities
- * Telephone/Communication service facilities
- * Electric service facilities
- * Cable TV service facilities
- * Roadway and street improvements
- * Installation of fencing
- * Installation of landscaping improvements
- * Connector trails
- * Driveways
- * Parking Areas
- * Storage
- * Ingress/Egress
- * Curb/gutter improvements
- * Sidewalk crossings and connections
- * Storm sewer facilities and drainage improvements
- * Grading and other earth disturbing activities
- * Surveying
- * Soil/Geotechnical studies and testing
- * Locating utilities
- * Replacing, upgrading and relocating existing utilities and improvements

B. Instructions for Submitting Application for Non-Park Use

1. Licenses are required for both temporary and permanent uses. Applications for licenses shall be in a form designated by Parks and shall contain such information as Parks may require to enable it to fully evaluate the nature of the proposed use and its impact on the Springwater Corridor and its users. Supplemental information required as part of a non-park use application includes:

a. Plat of Springwater Corridor property showing land contours, park boundaries and all existing park improvements and land features (Park plats may be obtained from the Springwater Corridor Property Manager).

b. Profile drawings (at equal horizontal and vertical scales) showing relationships between existing grades and improvements and proposed grades and new facilities.

- c. Typical section (at equal horizontal and vertical scales) showing relationships of existing roads and trails to proposed new grades and facilities.
- d. Certification that applicant's property boundaries conform to Parks' boundary data.
- e. Size and type of vehicles that will require permanent or temporary access to Springwater Corridor.
- f. Application review fees as determined by Parks.
- g. Photographs of the affected and surrounding area.
- h. Written permission from Portland General Electric Company to encroach upon its easement which encompasses the entire Springwater Corridor.

2. Applications are administered by Parks' staff pursuant to adopted policies and procedures. Routine requests which have a use term for periods of one year or less may be approved or denied by staff and shall not have to be granted by City Council.

3. Applications involving road crossings, the transfer of permanent interests in the Springwater Corridor, proposals not covered by established policies and certain other complex projects are subject to consideration by and require approval from the Director of Portland Parks and Recreation and City Council.

C. General Conditions and Standards for Work and Construction

1. For work where encroachment into the Springwater Corridor is restricted or limited, approved users, which shall include Licensees, shall survey and stake-out the Springwater Corridor property boundary or other confines of limited access.

2. Licensee shall then install (and shall maintain for the duration of Licensee's work) a temporary fence or other barrier suitable to Parks to prevent Licensee and Licensee's employees and contractors from encroaching beyond the restricted or limited area.

3. For work by or on behalf of an adjoining landowner, Licensee shall take such steps as necessary (including boundary survey research and achieving adjustments in the adjoining landowner's deed description) to satisfactorily demonstrate to Parks that her/his common boundary with the Springwater Corridor property conforms to the Springwater Corridor property description.

4. For grading, excavating, trenching or other earth disturbing work by Licensee or for any other work activity affecting the Springwater Corridor boundary markers or identifying features (such as fences, tree lines, etc.), Licensee, upon completion of her/his work, shall engage a surveyor registered in the State of Oregon to reestablish the boundary as defined by Parks' data with identifying plastic or aluminum caps on iron rods placed on the line at all corners along the full distance of the affected area in accordance with the provisions of ORS Chapter 92.

5. All sanitary sewers, storm sewers, water lines, gas pipelines, electric lines, telephone communication lines, cable TV lines, and like facilities installed across any paved or other hard-surfaced road, walkway or trail which is heavily-used and not readily relocatable, shall be installed using boring or tunneling methods approved by Parks, except when demonstrated to the satisfaction of Parks that no feasible alternatives exist.

6. Utilities and roadways (when permitted) shall cross the Springwater Corridor in the shortest and most direct manner (normally at right angles to the Springwater Corridor property boundaries), unless otherwise directed by Parks. The exception to this policy is in the case when utilities are placed in or adjacent to existing roadways. In that case, the utilities may parallel the roadways.

7. To the greatest extent possible, utilities through or across the Springwater Corridor shall be placed within existing road rights-of-way or similar areas of limited usefulness as determined by Parks.

8. Utilities shall be placed underground, and no surface structures shall be permitted except when it is demonstrated to the satisfaction of Parks that no feasible alternatives exist. Pipelines must be buried at least 24 inches deep to protect them from surface disturbance. Utilities must be buried to a sufficient depth to protect them from surface disturbances arising from use of the Corridor by maintenance vehicles.

9. When exceptions to the General Conditions and Standards are granted, use and administration fees shall be adjusted upward to reflect the added effects and impacts of the non-standard work on the Springwater Corridor and on Parks' administration activities.

10. Unless a license specifically provides for and allows soil testing, utility line locating and surveying, all such work shall be covered by a separate license to be obtained by the contractor performing the work.

11. A proposed construction schedule, complete plans and a list of the names of all contractors and subcontractors working on the project shall be submitted to Parks.

12. All excavation or other subsurface activity shall be safeguarded for the prevention of accidents. All excavated or tunneled areas shall be filled in or adequately secured at the end of each work day.

(This document contains copyrighted material excerpted from the *Northern Virginia Regional Park Authority Manual on Policies and Procedures Governing Easements and Licenses and Non-Regional Park Uses of Northern Virginia Regional Park Authority Property* and is used with the permission of the Northern Virginia Regional Park Authority).

EXHIBIT E
Metro Easement Policy and
Metro Resolution No. 97-2539B

Rebecca V. Shoemaker, Archivist
Clerk of the Metro Council

FOR THE PURPOSE OF APPROVING GENERAL)
POLICIES RELATED TO THE REVIEW OF)
EASEMENTS, RIGHT OF WAYS, AND LEASES)
FOR NON-PARK USES THROUGH PROPERTIES)
MANAGED BY THE REGIONAL PARKS AND)
GREENSPACES DEPARTMENT.)

RESOLUTION NO. 97-2539B

Introduced by
Mike Burton, Executive Officer

WHEREAS, Metro currently owns and manages more than 6,000 acres of regional parks, open spaces, natural areas, and recreational facilities; and

WHEREAS, additional lands are being acquired through the Open Space, Parks, and Streams Bond Measure, approved by voters in May of 1995; and

WHEREAS, the primary management objectives for these properties are to provide opportunities for natural resource dependent recreation, protection of fish, wildlife, and native plant habitat and maintenance and/or enhancement of water quality; and

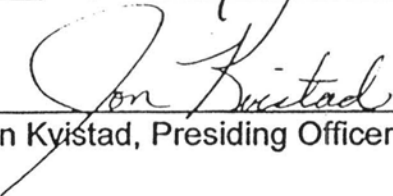
WHEREAS, Metro will be approached with proposals to utilize regional parks, open spaces, natural areas, and recreational facilities property for utility, transportation, and other non-park purposes; and

WHEREAS, Metro seeks to insure that these uses have no negative impact upon the primary management objectives of Metro Regional Parks and Greenspaces properties; and

WHEREAS, it would be in Metro's best interest to provide for the orderly evaluation and consideration of proposals to utilize portions of Metro Regional Parks and Greenspaces properties for utility, transportation and other non-park uses; NOW THEREFORE,

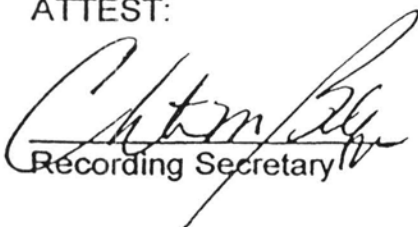
BE IT RESOLVED, that the Metro Council hereby adopts the policy attached as Exhibit "A" for any and all requests related to formal proposals for the use of Metro Regional Parks and Greenspaces properties for the purposes noted therein.

ADOPTED by the Metro Council this 6th day of November, 1997.


Jon Kyistad, Presiding Officer

ATTEST:

Approved as to Form:


Recording Secretary

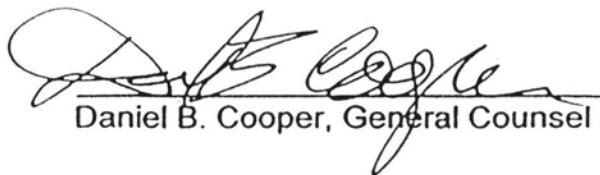

Daniel B. Cooper, General Counsel

Exhibit "A"

METRO POLICY RELATED TO THE REVIEW OF EASEMENTS, RIGHT OF WAYS, AND LEASES FOR NON-PARK USES

Metro owns and manages, either on its own or in partnership with other government and private entities, several thousand acres of regional parks, open spaces, natural areas and recreational facilities. These facilities are maintained to promote and preserve natural resources and recreational opportunities for the public consistent with the Greenspaces Master Plan adopted by the Metro Council in 1992, the Open Spaces Bond Measure approved by the voters in 1995 and other restrictions limiting the uses of specific properties in existence at the time of its acquisition by the public. Nothing in this policy shall be construed to allow these facilities to be used in any manner which detracts from this primary purpose. This policy is written from the perspective of Metro as the property owner, however, in those cases in which Metro co-owns a property with other entities, all decisions concerning the use of the property in question will be fully coordinated with the other owners. In addition, all new development and all proposed work within Water Quality Resource Areas or other environmentally sensitive work will be conducted in accordance with Metro or local government policies, to include where appropriate, application for permits and completion of environmental reviews. In event that local government policies are less restrictive than the Metro Model ordinances, Metro will apply the more restrictive Metro policies.

Regarding requests for easements, right of ways, and leases for non-park uses in Metro owned or managed regional parks, natural areas or recreational facilities, it is Metro's policy to:

- 1) Provide for formal review of all proposed easements, right of ways, and leases for non-park, uses by the Regional Parks and Greenspaces Advisory Committee, the Regional Facilities Committee and the full Council. Notwithstanding satisfaction of the criteria set forth herein, the final determination of whether to approve a proposed easement, right of way, or lease is still subject to the review and approval by the full Metro Council.
- 2) Prohibit the development of utilities, transportation projects and other non-park uses within corridors or on sites which are located inside of Metro owned or managed regional parks, natural areas, and recreational facilities except as provided herein.
- 3) Reject proposals for utility easements, transportation right of ways and leases for non-park uses which would result in significant, unavoidable impacts to natural resources, cultural resources, recreational facilities, recreational opportunities or their operation and management.
- 4) Accommodate utility easements, transportation right of ways or other non-park uses when the Regional Parks and Greenspaces Department (the Department) determines that a proposed easement, right of way or non-park use can be accommodated without significant impact to

natural resources, cultural resources, recreational facilities, recreational opportunities or their operation and management; and that the impacts can be minimized and mitigated.

5) Require full mitigation and related maintenance, as determined by the Department, of all unavoidable impacts to natural resources, recreational facilities, recreational opportunities or their operation and management associated with the granting of easements, right of ways, or leases to use Metro owned or managed regional parks, natural areas or recreational facilities for non-park uses.

6) Limit rights conveyed by easements, right of ways, and leases for non-park uses to the minimum necessary to reasonably accomplish the purpose of any proposal.

7) Limit the term of easements, right of ways and leases to the minimum necessary to accomplish the objectives of any proposal.

8) Require "reversion", "non-transferable" and "removal and restoration" clauses in all easements, right of ways and leases.

9) Fully recover all direct costs (including staff time) associated with processing, reviewing, analyzing, negotiating, approving, conveying or assuring compliance with the terms of any easement, right of way, or lease for a non-park use.

10) Receive no less than fair market value compensation for all easements, right of ways, or leases for non-park uses. Compensation may include, at the discretion of the Department, periodic fees or considerations other than monetary.

11) Require full indemnification from the easement, right of way or lease holder for all costs, damages, expenses, fines or losses related to the use of the easement, right of way or lease. Metro may also require appropriate insurance coverage and/or environmental assurances if deemed necessary by the Office of General Counsel.

12) Limit the exceptions to this policy to: grave sales, utilities or transportation projects which are included in approved master/management plans for Metro regional parks, natural areas and recreational facilities; projects designed specifically for the benefit of a Metro regional park, natural area, or recreational facility; or interim use leases as noted in the Open Spaces Implementation Work Plan.

13) Provide for the timely review and analysis of proposals for non-park uses by adhering to the following process:

a) The applicant shall submit a detailed proposal to the Department which includes all relevant information including but not limited to: purpose, size, components, location, existing conditions, proposed project schedule and phasing, and an analysis of other alternatives which avoid the Metro owned or managed regional park, natural area or recreational facility which are considered infeasible by the applicant. Cost alone shall not constitute infeasibility.

b) Upon receipt of the detailed proposal, the Department shall determine if additional information or a Master Plan is required prior to further review and analysis of the proposal. For those facilities which have master plans, require that all proposed uses are consistent with the master plan. Where no master plan exists all proposed uses shall be consistent with the Greenspaces Master Plan. Deficiencies shall be conveyed to the applicant for correction.

c) Upon determination that the necessary information is complete, the Department shall review and analyze all available and relevant material and determine if alternative alignments or sites located outside of the Metro owned or managed regional park, natural area, or recreational facility are feasible.

d) If outside alternatives are not feasible, the Department shall determine if the proposal can be accommodated without significant impact to park resources, facilities or their operation and management. Proposals which cannot be accommodated without significant impacts shall be rejected. If the Department determines that a proposal could be accommodated without significant impacts, staff shall initiate negotiations with the applicant to resolve all issues related to exact location, legal requirements, terms of the agreement, mitigation requirements, fair market value, site restoration, cultural resources, and any other issue relevant to a specific proposal or park, natural area or recreational facility. The Department shall endeavor to complete negotiations in a timely and business-like fashion.

e) Upon completion of negotiations, the proposed agreement, in the appropriate format, shall be forwarded for review and approval as noted in item "1" above. In no event shall construction of a project commence prior to formal approval of a proposal.

f) Upon completion of all Metro tasks and responsibilities or at intervals determined by the Department, and regardless of Metro Council action related to a proposed easement, right of way or lease for a non-park use, the applicant shall be invoiced for all expenses or the outstanding balance on expenses incurred by Metro.

g.) Permission from Metro for an easement or right-of-way shall not preclude review under applicable federal, state or local jurisdiction requirements.

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 04-3415 FOR THE PURPOSE OF APPROVING AN INTERGOVERNMENTAL AGREEMENT (IGA) WITH THE CITY OF PORTLAND FOR OPERATING AND MAINTAINING THE THREE BRIDGES AND TRAIL LOCATED IN THE SELLWOOD SECTION OF THE SPRINGWATER CORRIDOR

Date: January 14, 2004

Prepared by: Jim Desmond / Mel Huie

BACKGROUND

- The Springwater Corridor is a trail of regional significance. It stretches approximately 22 miles from OMSI to Boring, passing through southeast Portland, Milwaukie, Gresham, unincorporated Multnomah County and finally into Clackamas County. It is the region's most popular recreational and commuter trail with more than 1 million users annually.
- The Sellwood Section of the Springwater Corridor starts at SE Umatilla St. (where the recently completed "Springwater on the Willamette" trail ends) and heads south and southeast to the Three Bridges location, where it ends at the Union Pacific Railroad. The Sellwood Section is approximately 1.34 miles in length.
- The trail has been a priority of Metro Regional Parks and Greenspaces, and Metro Planning and Transportation for more than ten years. The trail is a key priority in both the Greenspaces Master Plan's Regional Trails System, and the Regional Transportation Plan (RTP).
- Funding for the purchase of the former railroad right-of-way where the future bridges and trail will be built was provided by funds (\$200,000) from Metro's Open Spaces Bond.
- Funding for the planning, design, engineering, and construction of the three bridges comes from federal transportation funds (\$4.3 million) via Metro's MTIP (Metropolitan Transportation Improvement Program). The cities of Portland and Milwaukie provided the required local match of 10.27 %.
- Metro is working in partnership with the cities of Portland and Milwaukie and the Oregon Department of Transportation to design and build the bridges and trail.
- The bridges are being planned to accommodate a future MAX Light rail line corridor as well.
- Portland General Electric (PGE) will maintain an easement to access its utility poles and transmission towers, but with the qualification that the access will not damage the bridges and trail.
- The City of Portland Parks and Recreation Department will own and maintain the bridges and trail improvements.

ANALYSIS/INFORMATION

1. **Known Opposition:** None
2. **Legal Antecedents:** Funding to purchase the property where the Three Bridges will be built and property where the future trail will be built came from Metro's 1995 Open Spaces, Parks and Streams Bond Measure.

Res. 96-2362: For the Purpose of Approving a Refinement Plan for the OMSI to Springwater Corridor Target Area as Outlined in the Open Spaces Implementation Work Plan.

Res. 01-3134: For the Purpose of Authorizing the Executive Officer to Purchase the Union Pacific Properties in the OMSI to Springwater Corridor Target Area.

Metro and the city of Portland have entered into previous IGAs giving Portland Parks the responsibility of maintaining the OMSI to Springwater Corridor Trail (a.k.a. Springwater on the Willamette Trail) and the Palmsblad to Rugg Rd. trail section of the Springwater Corridor in east Multnomah County.

3. Anticipated Effects:

- Portland Parks and Recreation will own and maintain the three bike and pedestrian bridges, and the trail improvements. The bridges are anticipated to be completed by the end of 2006.
- Properties purchased by Metro for the future trail between SE Umatilla and the three bridges location will be land banked by Portland Parks. Metro and Portland Parks are working together to acquire the necessary rights and easements to build the trail in this section. When the trail is completed sometime in the future, Portland Parks will own the trail improvements and maintain them.

4. Budget Impacts:

- No cost to Metro. The city of Portland will cover costs of maintaining the bridges and trail.

RECOMMENDED ACTION

- Approve the IGA, which will give the City of Portland maintenance responsibility for the three bridges and trail in the Sellwood Section.
- Authorize Metro's Chief Operating Officer (COO) to sign the IGA.

Agenda Item Number 7.1

Resolution No. 04-3412, For the Purpose of Authorizing an Exemption from Competitive Bidding Requirements and Authorizing Issuance of RFP #04-1091-SWR for the Operation of the Metro South and/or Metro Central Transfer Station.

Contract Review Board

Metro Council Meeting
Thursday, January 29, 2004
Metro Council Chamber

BEFORE THE METRO CONTRACT REVIEW BOARD

FOR THE PURPOSE OF AUTHORIZING AN) RESOLUTION NO. 04-3412
EXEMPTION FROM COMPETITIVE BIDDING)
REQUIREMENTS AND AUTHORIZING ISSUANCE OF) Introduced by Chief Operating Officer
RFP #04-1091-SWR FOR THE OPERATION OF THE) Michael J. Jordan, with the concurrence
METRO SOUTH AND/OR THE METRO CENTRAL) of Council President David Bragdon
TRANSFER STATIONS)

WHEREAS, Metro is responsible for advancing the cost-effective recovery of materials from solid waste generated within the region and for ensuring the proper disposal of the region's remaining solid waste; and,

WHEREAS, Metro owns the Metro Central and Metro South transfer stations in partial fulfillment of these responsibilities; and,

WHEREAS, it is Metro's policy to operate the transfer stations through the use of private firms; and,

WHEREAS, the current operations contract expires September 30, 2004, at which time a replacement contract or contracts must be in place; and,

WHEREAS, Metro Code Section 2.04.054(c) authorizes, where appropriate and subject to the requirements of ORS 279.015, the use of alternative contracting and purchasing practices that take account of market realities and modern innovative contracting and purchasing methods which are consistent with the public policy of encouraging competition; and,

WHEREAS, the Metro Contract Review Board finds, as set forth on the attached Exhibit B, that exempting the transfer station operator contract(s) from competitive bidding requirements pursuant to the RFP attached hereto as Exhibit A is unlikely to encourage favoritism in the award of the contract(s) or to substantially diminish competition for the contract(s), and that the award of the contract(s) pursuant to an exemption from competitive bidding will result in substantial cost savings to Metro; and,

WHEREAS, the Metro Contract Review Board finds, for the reasons stated in the staff report and the findings attached hereto as Exhibit B, that the proposed RFP attached hereto as Exhibit A is appropriate for obtaining such replacement contract(s); now, therefore:

BE IT RESOLVED that the Metro Contract Review Board:

1. Adopts as its findings the justifications, information and reasoning set forth in Exhibit B, which is incorporated by reference into this Resolution as if set forth in full;
2. Exempts from competitive bidding requirements the contract to be solicited through RFP #04-1091-SWR, attached as Exhibit A; and
3. Authorizes issuance of RFP #04-1091-SWR, attached as Exhibit A.

ADOPTED by the Metro Contract Review Board this _____ day of _____, 2004.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

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Request for Proposals for the Operation of the Metro South and/or Metro Central Transfer Stations

RFB #04-1091 SWR
Exhibit A

December 2003
(DRAFT)

Prepared by:
METRO

*Solid Waste & Recycling
Environmental & Engineering Services Division*

600 NE Grand Ave
Portland, OR 97232-2736
(503) 797-1650
Fax (503) 797-1795
www.metro-region.org



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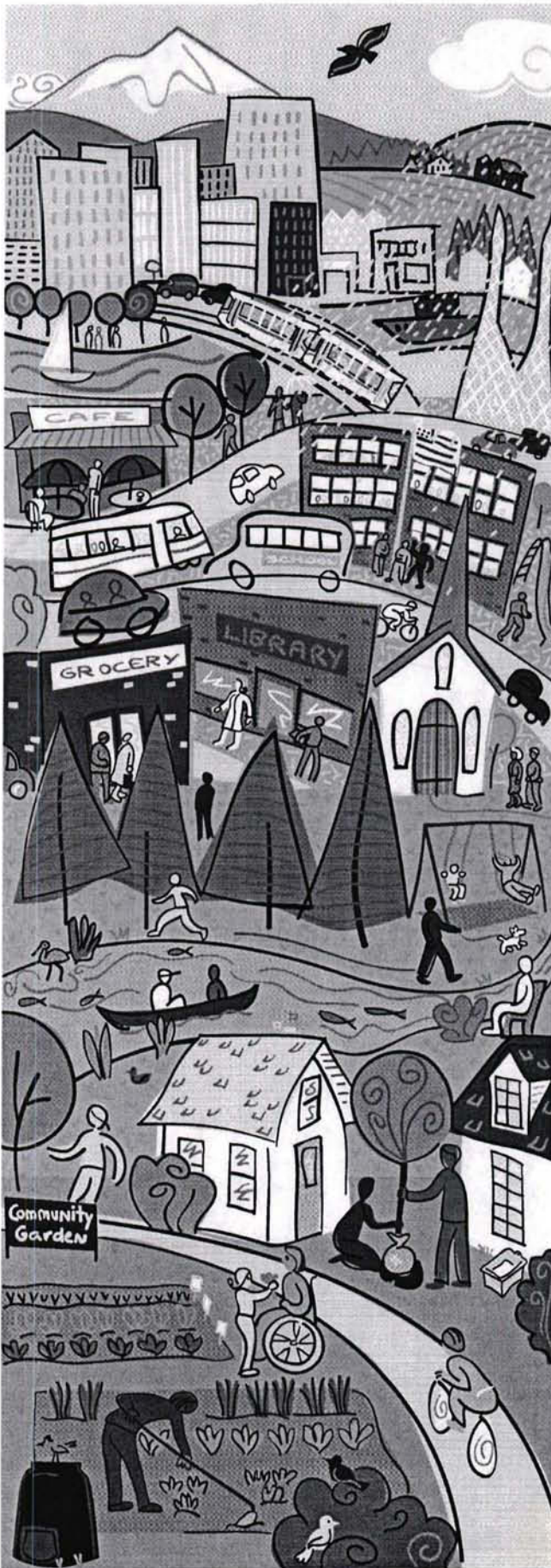


EXHIBIT "B"
Resolution No. 04-3412

FINDINGS SUPPORTING AN EXEMPTION FROM THE
COMPETITIVE BIDDING PROCESS FOR A REQUEST FOR PROPOSALS
FOR THE OPERATION OF THE METRO SOUTH AND/OR
METRO CENTRAL TRANSFER STATIONS

1. BACKGROUND

Metro owns the Metro South and Central Transfer Stations, which receive solid waste and certain source-separated recyclable materials from the public and commercial haulers. The stations have traditionally been operated by private contractors that are responsible for receiving the materials, recovering recyclables, and loading the remaining materials into transfer trailers for disposal.

The current contract to operate Metro's transfer stations expires on September 30, 2004. Metro intends to award a replacement contract(s) through a request for proposals process. Pursuant to Metro Code Section 2.04.054 and ORS 279.015(2) and (6), the Metro Contract Review Board makes the following findings to exempt this contract procurement from a request for bids process, and in support of the use of a request for proposals process.

2. FINDINGS

2.1. **Findings supporting exemption from competitive bid process regarding discouraging favoritism**

The Metro Contract Review Board finds that exempting the contract(s) for operation of Metro transfer stations from competitive bidding requirements is unlikely to encourage favoritism in the award of a contract(s). This finding is supported by the following:

- 2.1.1. Opportunity to Comment on RFP Documents: Interested parties will have been provided copies of the RFP documents and will have an opportunity to comment on those documents at a public hearing of the Metro Contract Review Board convened to authorize the release of this RFP.
- 2.1.2. Solicitation Advertisement: Pursuant to ORS 279.025, the solicitation will be advertised as appropriate in regional and national publications. In addition, solicitation documents will be available both through Metro's website page that highlights contracting opportunities, as well as at regional plan and procurement centers. The release will also be announced publicly at meetings of the Metro Solid Waste Advisory Committee, the Metro Council, and the Metro Contract Review Board. Additionally, regional and national firms providing such services will be contacted directly by staff. Accordingly, this solicitation process is designed to discourage favoritism.

2.1.3. Full Disclosure: To avoid favoritism and ensure full disclosure of all project requirements, the RFP solicitation package will include:

- A detailed description of the project;
- Performance specifications;
- Contractual terms and conditions;
- Selection process description;
- Evaluation criteria; and
- A complaint process and remedies

2.1.4. Selection Process: To avoid favoritism the selection process will include the following elements:

2.1.4.1. A pre-proposal review period for potential proposers to ask questions, request clarifications and suggest changes to the RFP or solicitation process generally.

2.1.4.2. The evaluation process will include the following steps:

- Proposals will be evaluated for completeness and compliance with the requirements listed in the RFP;
- References regarding experience, qualifications and operating history will be investigated and evaluated;
- The information regarding other aspects of the proposal such as technical characteristics, product support and cost will be discussed and evaluated;
- Firms submitting proposals considered complete and responsive will be interviewed regarding their proposal; and
- The selection committee will score complete proposals using predetermined criteria stated in the RFP.

2.1.4.3. Metro will enter into negotiations with the highest ranked firm (or combination of firms) to attempt to negotiate a contract(s). If negotiations are unsuccessful, negotiations will be conducted with the next highest ranked firm.

2.1.4.4. Once a contract has been negotiated, competing firms will be notified and given an opportunity to appeal the award(s) in accordance with the provisions of the Metro Code and Oregon law.

2.2. Findings supporting exemption from competitive bid process regarding fostering competition

The Metro Contract Review Board finds that exempting the contract(s) for operation of Metro transfer stations from competitive bidding requirements is unlikely to substantially diminish competition for such a contract(s). To the contrary, this RFP is likely to encourage competition among numerous suppliers that will offer a wide

spectrum of products and services representing a broad marketplace. This finding is supported by the following:

- 2.2.1. Preparation of RFP Documents: The RFP has been written in a simple, easy to read format given the complexity of the task for which proposals are being requested. As described above in section 2.1.1 of these findings, potential proposers have been provided with opportunities to review and provide comments on this RFP prior to its final release. In addition, proposers will have an opportunity to ask clarifying questions after this RFP is released. All of these steps, in combination, will make this process fair and unbiased to all potential proposers, such that parties are not likely to be discouraged from submitting proposals due to a misunderstanding of the RFP documents.
- 2.2.2. Solicitation Advertisement: As described in section 2.1.2 of these findings, the solicitation will be advertised in regional and national publications, via Metro's internet website, through direct contact with potential proposers, and with announcements at several public meetings. Thus, this RFP will be advertised widely to encourage the greatest number of competitive proposals.
- 2.2.3. RFP Design--Allowing Combinations of Proposals: This RFP permits proposals to operate one or both transfer stations. This will encourage competition because smaller companies that may not have the resources to operate both transfer stations, and that may have more innovative or specialized approaches, will be provided the opportunity to submit a proposal to operate a single transfer station. Thus, a firm may choose to propose only on the one station that best fits its strengths. During the last procurement a small local firm chose to propose to operate Metro South Transfer Station only, and ended up as part of the second-highest ranked combination (combined with a large national firm's proposal to operate the other transfer station). It is unlikely this small firm would have proposed if the RFP had required proposals to operate both stations.

2.3. Findings supporting exemption from the competitive bid process regarding cost savings

The Metro Contract Review Board finds that exempting the procurement of the contract(s) for the operation of Metro's transfer stations from competitive bidding requirements will result in substantial cost savings to Metro. This finding is based on consideration of the type of contract, its cost, the amount of the contract, the number of available proposers, and other appropriate factors as follows:

- 2.3.1. Protection of Metro Assets: Exemption from the competitive bid requirements permits Metro to solicit proposals that maximize the protection of over \$20 million of Metro's assets through proper operation and maintenance of the transfer facilities and associated equipment. Proposed operation and maintenance procedures as well as the experience of proposers

is best evaluated through the proposal process and will result in substantial savings in maintenance and repair costs both short and long term. In addition, proper operation of the facility will minimize the financial risks to Metro through expensive cleanups of hazardous materials and possible facility closures occurring as a result of poor operational practices.

- 2.3.2. Waste Reduction Savings: Exemption from the competitive bid requirements permits Metro to solicit both the cost and level of material recovery to which proposers are willing to commit. This enables Metro to pick the most cost-effective combination to achieve increased recovery—both between proposers and as compared with other potential Metro waste reduction programs. This will result in substantial savings in expenditures for achieving Metro's waste reduction goals.
- 2.3.3. Savings Due to Increased Competition: As described in section 2.2, above, this RFP process will encourage greater competition, which should result in substantial cost savings to Metro to operate the transfer stations while achieving its goals and purposes.

2.4. Additional factors regarding exemption from competitive bidding requirements

The operation of Metro's transfer stations represents a unique project in which special expertise is required to perform a technically complex operation. It is complex and is subject to multiple and conflicting needs of public and commercial customers who use the station as well as integration with the regional solid waste system. Metro must balance the cost of operating the transfer station with achievement of Metro's waste recycling and waste reduction goals. These conflicting needs are best balanced by examining both quantitative and qualitative responses to the RFP, and are not easily measured only in pricing mechanisms.

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STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 03-3412 FOR THE PURPOSE OF AUTHORIZING AN EXEMPTION FROM COMPETITIVE BIDDING REQUIREMENTS AND AUTHORIZING ISSUANCE OF RFP #04-1091-SWR FOR THE OPERATION OF THE METRO SOUTH AND/OR METRO CENTRAL TRANSFER STATIONS

Date: January 5, 2004

Drafted by: Chuck Geyer

BACKGROUND

Metro owns the Metro South and Central Transfer Stations. The Metro South Station (MSS) opened in 1983 and initially transferred waste to the St. Johns Landfill until its closure in 1991. The Metro Central Station (MCS) opened in 1991. The stations have traditionally been operated by private contractors that are responsible for receiving the materials, recovering recyclables, and loading the remaining materials into transfer trailers for disposal at the Columbia Ridge Landfill. In FY 2002-03 the stations received approximately 580,000 tons of solid waste and certain source separated materials from the public and commercial haulers.

The current contract to operate Metro's transfer stations began on October 1, 1997, and was scheduled to expire on September 30, 2002. In February 2002, the Metro Council extended the contract until September 30, 2004.

Prior to the extension, staff had been researching approaches to be incorporated into a replacement contract. The research had included focus groups with the various types of commercial haulers, surveys of the public customers of transfer stations, interviews with the current contractor and a review of past surveys of transfer station customers. An independent economist was hired to provide comparison data on other jurisdictions' transfer operations. Jurisdictions with similar types of operations were interviewed. An independent engineering firm familiar with the solid waste field was hired to review draft documents and provide advice. Many of the changes staff had contemplated were incorporated into the extension.

Since that time staff has researched sustainable elements for incorporation into the next procurement. These elements have been presented to Council during Work Sessions. Based on the feedback received, sustainable features have been incorporated into the RFP (attached as Exhibit A).

Reasons for Use of a Request for Proposals Process

The Solid Waste & Recycling Department (SW&R) is recommending use of a request for proposals process (specifically, RFP #04-1091-SWR attached to the resolution as Exhibit A) as the most appropriate method to accomplish the multiple goals of the procurement for a replacement contractor. These goals include efficient and safe operations, a maintenance program that ensures continuous operations while protecting Metro's assets, and an innovative and effective material recovery program – all in a cost-effective and sustainable manner.

Achieving these multiple goals requires that firms be given the flexibility to propose creative operational approaches, and for Metro to utilize multiple criteria to evaluate these approaches. A bid process does not allow for such flexibility. Detailed findings to exempt the procurement from the competitive bid process are attached as Exhibit B to the resolution.

The result of the procurement should be a performance-based contract in which enforceable goals are achieved through the use of incentives and disincentives. Below is a discussion of how the RFP is structured to achieve these goals, both in terms of contractual conditions and in the use of evaluation criteria.

Procurement Goals/Methods to Achieve Them

Operations and Maintenance

Goals for operation include a healthy and safe work environment for customers and employees, as well as efficient operation and customer satisfaction. Metro's goals for maintenance consist of ensuring continuous operation and the longevity of Metro-owned equipment and facilities. Both facets are to be conducted in a sustainable manner.

Operations

Operation of the facility involves the movement of customers onto the site, unloading of materials, movement of materials for recovery/disposal and reloading for either markets or disposal. The specifications for operations contain detailed requirements for achieving these functions in a satisfactory manner, and incentives and disincentives for critical performance items. Major operational features are discussed below.

Minimums for the number and type of employees are specified in the specifications, as are training requirements. However, the successful contractor is required to provide additional resources as needed to deal with fluctuations in the volume of customers or other variations in operating conditions. Failure to maintain efficient operations (defined in the contract) can result in a contract breach.

The contractor will also be responsible for screening waste to ensure hazardous or other unacceptable materials are identified and properly handled. A detailed load-checking program must be approved by Metro and failure to identify waste can result in the contractor becoming liable for any subsequent consequences.

Maximizing payloads destined for disposal is a critical performance variable to Metro since savings result when fewer loads are transported for disposal. The RFP therefore contains a target payload. Metro shares its savings with the contractor when the target is exceeded, and recoups its losses when the target is not achieved.

Maintenance

Proper maintenance of both equipment and facilities is essential to the operational goals of the procurement. Maintenance requirements are contained in the specifications portion of the RFP both in terms of detailed technical requirements and as performance requirements.

To encourage proper maintenance of Metro-supplied equipment, the RFP contains cost-sharing arrangements. These arrangements act as incentives to the contractor to properly maintain equipment so that it will attain its useful life expectancy, and disincentives when equipment must be replaced.

The successful contractor is required to maintain the site and all structures with the exception of the hazardous waste facilities. This includes maintaining all pavement and buildings as detailed in the specifications.

Sustainability elements have been incorporated into both operations and maintenance. The successful contractor is required to utilize a portion (15%) of wind-generated electricity as well as environmentally preferred cleaners in operating the facilities. In addition, proposers will submit their plans for other sustainable practices, including reducing emissions from their equipment that will be evaluated for inclusion in a final contract.

Evaluation

Twenty-five points are available for the Operations and Maintenance Criterion. Points will be allocated based on how well the proposed approaches will accomplish Metro's goals and satisfy the requirements of the RFP. Ten of the twenty-five points will be available for each facility, and five will be allocated based on the combination of options evaluated.

Specific aspects of each proposal that will be used to allocate points include:

- Type and proposed levels of personnel and equipment for station operations;
- How the operations plan maximizes operational efficiency and effectiveness;
- The quality of maintenance plans, schedules and tracking systems;
- Experience, number and type of proposed maintenance personnel;
- Safety and training programs and procedures, and experience of dedicated personnel;
- The implementation of sustainable practices in operation and maintenance practices.

The number of points allocated for this criterion has increased from 15 in the last procurement to 25. Two factors have influenced the increased allocation. First, the realization that the quality of operations, maintenance and safety practices translates into costs or savings for Metro and its customers. In addition, the procurement has been changed to bind the successful proposer to the detailed plans it submits in its proposal. This increased certainty justifies the increase in points for the criteria.

Materials Recovery

Currently the facilities recover approximately 15% of the dry waste received. A major goal of this procurement was to achieve a recovery rate at the transfer stations equivalent to 25% of all dry waste received which is the same standard to which we hold other regional facilities.

In order to achieve this target, the RFP will require three levels of material recovery from proposers:

- 1) mandatory minimum set by Metro (*Annual Base Recovery Level*),
- 2) guaranteed additional level set by the contractor in the proposal (*Contractor's Recovery Guarantee*),
- 3) additional recovery that exceeds the contractor's guarantee (*Bonus Recovery Credit*).

Payment for each ton recovered in levels 1 and 2 will equal the avoided cost of disposal. Payment for "bonus" recovery will be at a level negotiated during the proposal process and funded through a "bonus fund" established in the budget. Both the guarantee and bonus are new performance-based features of this procurement. Failure to reach the guaranteed recovery level in any month results in a payment from the contractor to Metro equal to the avoided cost times the number of tons not recovered. These payments are placed in the bonus fund by Metro.

The additional cost to Metro would be the premium paid for bonus recovery above the avoided cost. It is estimated that an additional 9,000 to 9,500 tons could reasonably be recovered from the stations' dry waste. If Metro were to have to pay bonus recovery credits in excess of the standard avoided costs on this level of additional recovery, the department would need to budget somewhere between an estimated \$60,000 and \$160,000 annually. The amount necessary is contingent upon three variables: the

contractor's recovery guarantee, the contractor's bid price for bonus tons, and the actual level of tons recovered above the guarantee.

Achieving the 25% rate goal will be extremely challenging due to the nature of the materials Metro's stations receive. Some additional factors that could have significant impacts on dry waste recovery include the lack of local markets for drywall, the DEQ asbestos sampling requirements and the close proximity of roofing recovery facilities reducing the recoverable roofing loads being delivered, and the RSWMP contingency plan recommendation to require the MRFing of all dry waste loads.

If enough incentive was provided, this system could substantially increase recovery at the station. The recovery level system set forth in the RFP gives a clear message that recovery is important and contractors will be compensated for increased recovery levels. The scoring system also provides incentive for proposers to maximize their recovery guarantee.

Evaluation

Twenty-five points are allocated to the materials recovery criterion - an increase of five points from the previous procurement. The main difference in the criterion involves how the recovery guarantee will be applied. A formula, similar to that used in allocating cost criterion points, will be used to allocate twenty (ten for each facility) of the twenty-five available for each combination. The formula allocates points between proposers by comparing their proposed guarantees with the highest guarantee getting all 20 points and someone proposing half of highest getting 10.

The remaining five points will be awarded based on evaluation of the feasibility of the proposal to exceed its guarantee, its accommodation of reuse strategies, experience with the proposed recovery methods and the cost to achieve bonus levels of recovery.

The use of the recovery guarantee to allocate the majority of points for this criterion provides certainty in achieving the recovery goals of the procurement. This certainty, in combination with the cost criterion, establishes a cost-effectiveness measure for material recovery not seen in the previous procurement. This allows an increase in points for the criterion while balancing Metro's economic interests and recovery goals.

Cost-Effectiveness

To achieve the goals of this procurement in a cost-effective manner, the RFP solicits detailed costs for specific items, while setting detailed prices for a number of incentives/disincentives that reflect Metro's costs.

Cost will be calculated using five prices submitted for handling waste and source separated materials at MSS and six prices at MCS (organics is the additional item), as well as proposing a CPI adjustment, recovery guarantee and bonus. In addition, a number of payment items will be fixed by Metro. These items are contained on the price schedule for Options #3 (both stations), which is included as Attachment No. 1 to this staff report.

The main difference from the last procurement is the number of tonnage levels for handling mixed waste and the number of source separated categories, for which prices were solicited. Two tonnage categories are contained in the RFP for each station, as opposed to five in the last procurement. The number has been reduced mainly because the higher number of tonnage categories did not achieve their purpose of determining points where economies of scale can be achieved. Proposals received in the previous procurement did not contain marked differences in the cost of handling waste at different tonnage

categories above the put-or-pay level. Given the decline in tonnage projected for this contract as compared to the previous contract period (approximately 20%), staff determined that two tonnage categories would be adequate.

Only one source separated category (yard debris/wood) was included in the last contract. As can be seen on Attachment No. 1, source separated prices are being solicited in the current RFP for source separated roofing, wallboard and organics (at MCS only) as well as a per ton price for bonus recovery. The prices for roofing and wallboard will not be used to calculate cost, but may be used in the future to establish a separate tip fee.

Fifty points are allocated to this criterion. It was allocated sixty-five points in the last procurement. The change reflects an increased emphasis on material recovery and operations and maintenance, and the explicit commitment proposers will be required to make in each of those areas. For material recovery, the commitment of the guaranteed recovery rate will be contractually binding. Likewise, the levels of staffing and equipment proposed to operate and maintain the facility will also be binding on the successful proposer. This was not the case for the previous procurement.

Evaluation

Points will be allocated with the lowest total cost proposal receiving all 50 points for this criterion. Proposals that are not the lowest cost will be allocated points based on a percentage of the lowest cost proposal.

Major Features of the Request for Proposals

The major features of the RFP are:

- Proposals will be accepted to operate one of the stations or both;
- At least 50% of the payments will be guaranteed to the contractor;
- The resulting contract(s) will be for 5 years;
- Sustainability Elements

These features are discussed in more detail below.

Combinations of Proposals

Firms may propose to operate Metro South (MSS), Metro Central (MCS), or both transfer stations. Proposals for MSS only will be paired with proposals for MCS only and those combinations will be evaluated against proposals to operate both stations. These are referred to as options #1 (MSS), #2 (MCS) and #3 (both).

Proposals will be solicited in this fashion in order to maximize competition. Competition is encouraged because the two stations are quite different. Firms may choose to propose only on the one station that fits their strengths. During the last procurement a small local firm chose to propose on MSS only, and ended up in a combination with a large national firm as the second-highest ranked combination. It is unlikely this firm would have proposed if the RFP had required proposers to operate both stations.

The approach also promotes competition in that the regional and national firms submitting proposals have chosen in the past to propose on all three options. Their proposals for options #1 and #2 are then paired with others to create multiple combinations. During the last procurement, while only four firms submitted proposals, sixteen combinations were evaluated.

Fifty-Percent Fixed Payment Guarantee / Annual “Put-or Pay”

One of the financial restrictions of this procurement is that lump sum (or fixed) payments guaranteed the contractor must make up at least half the total annual payments under the resulting contract. This is because the transfer stations were financed using tax-exempt bonds. Such financing presumes public ownership and operation and therefore tax liability is avoided. IRS rules consequently impose restrictions on the private operation of publicly owned facilities financed by this method. The restrictions vary depending on the length of the contract. The longer the contract, the more restrictions that are imposed on the amount of revenue the private operator can obtain through variable payments. Failure to abide by these restrictions can result in serious financial consequences to Metro.

Contract Length

The initial term of the contract is for a period of five years (October 1, 2004 to September 30, 2009). Five years is considered the minimum length of time for a private contractor to reasonably amortize the equipment that must be purchased. The contract can be terminated unconditionally at the end of the third year of the five-year term, as required by IRS rules.

Sustainability Elements

Several new elements have been added to this procurement to reflect the agency’s policies for a sustainable business model. As discussed above, a Contractor’s Recovery Guarantee and Bonus Recovery Credits have been incorporated to increase materials recovery at the facilities.

Operationally, the requirement to purchase 15% of the electricity used at the facility from wind generation is a new sustainability requirement. As is the requirement for proposers to present approaches to decrease emissions from the equipment used in the facility. The successful contractor will also be required to use environmentally- preferred cleaning products.

Proposers are also asked to present sustainable operational practices addressing such items as the use of recycled engine oils, hydraulic fluids and lubricants; the recycled content of storage containers and other products; and the extent of sustainable administrative functions. Proposals will receive evaluation points (up to five) for these optional elements.

Other New Features

Several additional changes not mentioned above have been made to the requirements of the RFP as compared to the current contract.

- The performance-based system to maximize payloads for transport has been changed to increase the average payload used to trigger bonus payments and by the addition of a disincentive provision if minimum average payloads are not achieved.
- The safety and training requirements have been substantially revised. Contractor’s responsibilities have been increased and clarified. Metro also has increased its responsibilities for monitoring the contractor and for providing training to the contractor’s employees.
- The RFP anticipates that Metro Central will act as a reload point for source separated organics collected through a City of Portland commercial organics program. The MCS operator will be required to manage the loads after delivery and reload them into the organics processor’s vehicles.
- Annual adjustments to contract prices are limited to 75% of the CPI.

Project Schedule

Council Approval – February 2004
Release to Vendors – February 2004
Proposals Due – March 2004
Evaluation of Proposals – April 2004
Council Hearings on Award/Appeals – May 2004
Contractor Mobilizes – May through September 2004
New Contract Begins – October 1, 2004

The mobilization period is needed to obtain new rolling stock for performance of the work. In particular, the track loader that will be used in the pit at MSS requires this lead-time and a new one is required for this contract. If sufficient mobilization time is not available, staff may recommend extending the existing contract.

Outstanding Questions and Policy Issues

The amount of tonnage allocated for private facilities is not anticipated to be resolved prior to release of the RFP. Changes in the amount allocated to a new facility would affect the tonnage projections for this procurement.

ANALYSIS/INFORMATION

1. Known Opposition

The existing contractor has requested a contract extension rather than proceeding with the RFP process.

2. Legal Antecedents

Metro Code Section 2.04.054(c) authorizes, where appropriate and subject to the requirements of ORS 279.015, the use of alternative contracting and purchasing practices that take account of market realities and modern innovative contracting and purchasing methods which are consistent with the public policy of encouraging competition.

3. Anticipated Effects

Adoption of Resolution No. 04-3412 will exempt the procurement of transfer station operations services for Metro's two transfer stations from the competitive bid requirements of the Metro Code and State law, and authorize the release of a request for proposals to obtain such services.

4. Budget Impacts

There will be no impact on the current budget. The FY 2004-05 budget may be impacted depending on the cost associated with the replacement contract(s) and the establishment of a bonus fund.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Resolution No. 04-3412.

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ATTACHMENT No.1

Price Schedule
for
Option #3 - Metro South and Metro Central Station Operation

METRO SOUTH ONLY ITEMS

1. Fixed Annual Payment for Waste Transfer	\$ _____
2. Per Ton Price for each ton in excess of 17,000 tons per Month	\$ _____
3. Per Ton Price for each ton of source separated yard debris/wood	\$ _____
4. Per Ton Price for each ton of source separated clean drywall	\$ _____
5. Per Ton Price for each ton of source separated asphalt roofing material	\$ _____
6. Contractor's Recovery Guarantee	_____ %
7. Fixed Annual Payment for Waste Recovery	\$344,556

METRO CENTRAL ONLY ITEMS

1. Fixed Annual Payment for Waste Transfer	\$ _____
2. Per Ton Price for each ton in excess of 18,000 tons per Month	\$ _____
3. Per Ton Price for each ton of source separated yard debris/wood	\$ _____
4. Per Ton Price for each ton of source separated clean dry wall	\$ _____
5. Per Ton Price for each ton of source separated asphalt roofing material	\$ _____
6. Per Ton Price for each ton of source separated organics	\$ _____
7. Contractor's Recovery Guarantee	_____ %
8. Fixed Annual Payment for Waste Recovery	\$344,556

Items for Both Stations

1. Per Ton Bonus Recovery Credit	\$ _____
2. Percentage of CPI proposed (cannot exceed 75%)	_____ %

Other Payments

A. Per Ton Compaction Bonus	\$ 8.01
B. Per Ton Compaction Deduction	\$16.02
C. Per Load Overload Adjustment	\$19.58
D. Per Ton Recovery Credit/(Disposal Cost Reimbursement)	\$33.78



012904c-01

DEPARTMENT OF
TRANSPORTATION AND DEVELOPMENT

Sunnybrook Service Center

January 27, 2004

David Bragdon
Metro Council President
600 NE Grand Avenue
Portland, Oregon 97232

Re: 2003 Compliance Report


I would like to take this opportunity to update the Council on Clackamas County's progress towards compliance with Title 3. The County has been reviewing identified resources located within the Oak Lodge Sanitary District, the only area where the County's programs are not acknowledged as being compliant with Title 3. The Clackamas County Planning Commission and the Board of County Commissioners (the "Board") have held hearings to review specific proposals. County Counsel has been preparing the formal findings and decision for adoption by the Board. Counsel has informed me that adoption by the Board is expected within the next two weeks. Depending on the nature of this final action, the Board may need to seek review by MPAC, or request an exception pursuant to Title 8.

It is important to note that there are very few resources and very little developable land within this area. The County has acted in accordance with Section 3.07.810E, requiring direct application of Title 3 to land use decisions in the interim. We are confident that we will be able to resolve this matter in the very near future.

I also would like to comment briefly on the County's progress on Title 7 (Affordable Housing). The County has not yet submitted the second report. Our first report explained that the County successfully uses several of the strategies to encourage affordable housing. The Board will review possible amendments to the Comprehensive Plan and Zoning and Development Ordinance to modify parking standards and establish goals for affordable housing. The Board also will be considering possible changes in the System Development Charge Ordinance and permit fees. The Board's consideration is expected near the end of February.

I hope this information is helpful. Thank you for the opportunity to comment.

Cordially,


Douglas M. McClain
Planning Director

012904c-02

From: Chuck Geyer
To: Christina Billington
Date: 1/27/04 11:40a.m.
Subject: Fwd: Oregon City Transfer Station

I received the following message intended for the Metro Council. Please distribute as appropriate.

Chuck Geyer
Principal Planner
Metro- Solid Waste & Recycling
geyer@metro.dst.or.us
(503)797-1691

>>> "James Bernard" <bgarage@bernardsgarage.com> 01/27/04 07:13AM >>>
Metro Council,

I do not support extending the contract on the Oregon City Transfer Station

CC: Mike Hogle

Table A: Status of Compliance with the Functional Plan – January 21, 2004

Functional Plan Title	No. of Applicable Jurisdictions	No. of Jurisdictions in Compliance	Percentage Complete
Title 1 – capacity analysis	27	26 (analysis completed)	
Title 1 – map of design types	27	27	
Title 1 – minimum densities	27	26	
Title 1 – partitioning standards	27	27	
Title 1 – accessory dwelling units	27	26	
Title 1 – accessory dwelling units in centers	21		
Title 1 – reporting	27	0	
Total Title 1	162		
Title 2 – minimum/maximum standards	27	27	100%
Title 2 – variance process	27	27	100%
Title 2 – blended ratios	27	27	100%
Total Title 2	81	81	100%
Title 3 – floodplain standards	25	25	100%
Title 3 – water quality standards	26	23	88%
Title 4 – erosion control standards	27	27	100%
Total Title 3	78	75	96%
Title 4 – protection of RSIA's	unknown		
Title 4 – protection of Industrial Areas	20		
Title 4 – protection of Employment Areas	22	22	100%
Total Title 4			
Title 5 – rural reserves	2	2	100%
Title 5 – green corridors	10	9	90%
Title 5 - Total	12	11	92%
Title 6 – Develop a Strategy to Enhance Centers	21		
Title 6 – Special Transportation Areas	21		
Title 6 – Siting Government Offices	21		
Title 6 – Reporting on Centers Progress	21		
Total Title 6	84		
Title 7 – 1st progress report	27	17 (received)	
Title 7 – 2nd progress report	27 – due December 31, 2003	13 (received)	
Title 7 – 3rd progress report	27 – due June 30, 2003	0	
Total Title 7	81	(not available)	(not available)
Total			

012904c-03

Status of Compliance with the Functional Plan – December 31, 2003

Percentage of Completeness by Title 1-6

Functional Plan Title	No. of Applicable Jurisdictions	No. of Jurisdictions in Compliance	Percentage Complete
Title 1 – minimum densities	27	26	96%
Title 1 – partitioning standards	27	27	100%
Title 1 – accessory dwelling units	27	26	96%
Title 1 – map of design types	27	27	100%
Title 1 – capacity analysis	27	26 (analysis completed)	96%
Total Title 1	135	132	98%
Title 2 – minimum/maximum standards	27	27	100%
Title 2 – variance process	27	27	100%
Title 2 – blended ratios	27	27	100%
Total Title 2	81	81	100%
Title 3 – floodplain standards	25	25	100%
Title 3 – water quality standards	26	23	88%
Title 4 – erosion control standards	27	27	100%
Total Title 3	78	75	96%
Title 4 – retail in Industrial Areas	20	20	100%
Title 4 – retail in Employment Areas	22	22	100%
Total Title 4	42	42	100%
Title 5 – rural reserves	2	2	100%
Title 5 – green corridors	10	9	90%
Title 5 - Total	12	11	92%
Title 6 – street design	27	27	100%
Title 6 – street connectivity	27	27	100%
Total Title 6	54	54	100%
Total: Completeness Titles 1-6	402	395	98%

This table shows compliance for Titles 1 through 6, pre-2002 amendments to the Functional Plan.

Status of Compliance by Jurisdiction

Title 1: Housing and Employment Accommodation

	2. capacity analysis	3. map of design types	4.A minimum density	4.B partitioning standards	4.C accessory dwelling units	4.C accessory dwelling units in centers	2 & 4.D Reporting
Beaverton	in compliance	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05
Cornelius	in compliance	in compliance	in compliance	in compliance	in compliance	N/A	07/07/05
Durham	in compliance	in compliance	in compliance	in compliance	in compliance	N/A	07/07/05
Fairview	in compliance	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05
Forest Grove	in compliance	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05
Gladstone	in compliance	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05
Gresham	in compliance	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05
Happy Valley	in compliance	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05
Hillsboro	in compliance	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05
Johnson City	in compliance	in compliance	in compliance	in compliance	in compliance	N/A	07/07/05
King City	in compliance	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05
Lake Oswego	in compliance	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05
Maywood Park	in compliance	in compliance	in compliance	in compliance	in compliance	N/A	07/07/05
Milwaukie	in compliance	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05
Oregon City	in compliance	in compliance	Planning Comm.	in compliance	Planning Comm.	07/07/05	07/07/05
Portland	in compliance	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05
Rivergrove	in compliance	in compliance	in compliance	in compliance	in compliance	N/A	07/07/05
Sherwood	in compliance	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05
Tigard	in compliance	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05
Troutdale	in compliance	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05
Tualatin	in compliance	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05
West Linn	in compliance	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05
Wilsonville	In progress	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05
Wood Village	in compliance	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05
Clackamas C.	in compliance	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05
Multnomah C.	in compliance	in compliance	in compliance	in compliance	in compliance	N/A	07/07/05
Washington C.	in compliance	in compliance	in compliance	in compliance	in compliance	07/07/05	07/07/05

	Title 2: Regional Parking Policy		
	2.A.1&2 Minimum/Maximum standards	2.A.3 Variance Process	2.B Blended Ratios
Beaverton	in compliance	in compliance	in compliance
Cornelius	in compliance	in compliance	in compliance
Durham	In compliance	In compliance	In compliance
Fairview	in compliance	in compliance	in compliance
Forest Grove	in compliance	in compliance	in compliance
Gladstone	in compliance	in compliance	in compliance
Gresham	in compliance	in compliance	in compliance
Happy Valley	in compliance	in compliance	in compliance
Hillsboro	in compliance	in compliance	in compliance
Johnson City	in compliance	in compliance	in compliance
King City	in compliance	in compliance	in compliance
Lake Oswego	in compliance	in compliance	in compliance
Maywood Park	in compliance	in compliance	in compliance
Milwaukie	in compliance	in compliance	in compliance
Oregon City	in compliance	in compliance	in compliance
Portland	in compliance	in compliance	in compliance
Rivergrove	in compliance	in compliance	in compliance
Sherwood	in compliance	in compliance	in compliance
Tigard	in compliance	in compliance	in compliance
Troutdale	in compliance	in compliance	in compliance
Tualatin	in compliance	in compliance	in compliance
West Linn	in compliance	in compliance	in compliance
Wilsonville	in compliance	in compliance	in compliance
Wood Village	in compliance	in compliance	in compliance
Clackamas County	in compliance	in compliance	in compliance
Multnomah County	in compliance	in compliance	in compliance
Washington County	in compliance	in compliance	in compliance

Title 3: Water Quality, Flood Mgmt and Fish and Wildlife Conservation			
	4.A Flood Mgmt Performance Standards	4.B Water Quality Performance	4.C Erosion and Sediment Control
Beaverton	in compliance	in compliance	in compliance
Cornelius	in compliance	in compliance	in compliance
Durham	in compliance	in compliance	in compliance
Fairview	in compliance	in compliance	in compliance
Forest Grove	in compliance	in compliance	in compliance
Gladstone	in compliance	in compliance	in compliance
Gresham	in compliance	in compliance	in compliance
Happy Valley	in compliance	in compliance	in compliance
Hillsboro	in compliance	in compliance	in compliance
Johnson City	in compliance	in compliance	in compliance
King City	in compliance	in compliance	in compliance
Lake Oswego	in compliance	In progress	in compliance
Maywood Park	N/A	N/A	in compliance
Milwaukie	in compliance	in compliance	in compliance
Oregon City	in compliance	in compliance	in compliance
Portland	in compliance	in compliance	in compliance
Rivergrove	in compliance	in compliance	in compliance
Sherwood	in compliance	in compliance	in compliance
Tigard	in compliance	in compliance	in compliance
Troutdale	in compliance	in compliance	in compliance
Tualatin	in compliance	in compliance	in compliance
West Linn	in compliance	In progress	in compliance
Wilsonville	in compliance	in compliance	in compliance
Wood Village	N/A	in compliance	in compliance
Clackamas County	in compliance	Awaiting Ordinance	in compliance
Multnomah County	in compliance	in compliance	in compliance
Washington County	in compliance	in compliance	in compliance

Title 4: Retail in Employment and Industrial Areas

	2. Protection of Regionally Significant Industrial Areas	3. Protection of Industrial Areas	4. Protection of Employment Areas
Beaverton		07/07/05	in compliance
Cornelius		07/07/05	in compliance
Durham		07/07/05	in compliance
Fairview		07/07/05	in compliance
Forest Grove		07/07/05	in compliance
Gladstone		N/A	in compliance
Gresham		07/07/05	in compliance
Happy Valley		N/A	N/A
Hillsboro		07/07/05	in compliance
Johnson City		N/A	N/A
King City		N/A	N/A
Lake Oswego		07/07/05	in compliance
Maywood Park		N/A	N/A
Milwaukie		07/07/05	in compliance
Oregon City		07/07/05	in compliance
Portland		07/07/05	in compliance
Rivergrove		N/A	N/A
Sherwood		07/07/05	in compliance
Tigard		07/07/05	in compliance
Troutdale		07/07/05	in compliance
Tualatin		07/07/05	in compliance
West Linn		N/A	in compliance
Wilsonville		07/07/05	in compliance
Wood Village		07/07/05	in compliance
Clackamas County		07/07/05	in compliance
Multnomah County		07/07/05	in compliance
Washington County		07/07/05	in compliance

Title 5: Neighbor Cities and Rural Reserves		
	2. Rural Reserves	2. Green Corridors
Beaverton	N/A	N/A
Cornelius	N/A	N/A
Durham	N/A	N/A
Fairview	N/A	N/A
Forest Grove	N/A	N/A
Gladstone	N/A	N/A
Gresham	N/A	in compliance
Happy Valley	N/A	N/A
Hillsboro	N/A	in compliance
Johnson City	N/A	N/A
King City	N/A	N/A
Lake Oswego	N/A	N/A
Maywood Park	N/A	N/A
Milwaukie	N/A	N/A
Oregon City	N/A	Planning Commission
Portland	N/A	N/A
Rivergrove	N/A	N/A
Sherwood	N/A	in compliance
Tigard	N/A	N/A
Troutdale	N/A	N/A
Tualatin	N/A	in compliance
West Linn	N/A	in compliance
Wilsonville	N/A	in compliance
Wood Village	N/A	N/A
Clackamas County	In compliance	in compliance
Multnomah County	N/A	in compliance
Washington County	In compliance	in compliance

Title 6: Central City, Regional Centers, Town Centers and Station Communities

	2.A Develop a Strategy to Enhance Centers	3. Special Transportation Areas	4. Siting Government Offices	5. Reporting on Centers Progress
Beaverton	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
Cornelius	N/A	N/A	N/A	N/A
Durham	N/A	N/A	N/A	N/A
Fairview	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
Forest Grove	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
Gladstone	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
Gresham	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
Happy Valley	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
Hillsboro	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
Johnson City	N/A	N/A	N/A	N/A
King City	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
Lake Oswego	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
Maywood Park	N/A	N/A	N/A	N/A
Milwaukie	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
Oregon City	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
Portland	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
Rivergrove	N/A	N/A	N/A	N/A
Sherwood	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
Tigard	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
Troutdale	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
Tualatin	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
West Linn	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
Wilsonville	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
Wood Village	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
Clackamas County	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05
Multnomah County	N/A	N/A	N/A	N/A
Washington County	Mutually agreed timeframe	07/07/05	07/07/05	07/07/05

Title 7: Affordable Housing					
	First Progress Report – 2002¹			Second Progress Report – 2003 ²	Third Progress Report – 2004
	Report Received	15 Strategies Addressed	Consideration by Elected Body		
Beaverton	Received	No	No	Report Received	
Cornelius					
Durham	Received	No	No		
Fairview	Received		Yes	Report Received	
Forest Grove	Received	No	Yes		
Gladstone					
Gresham	Received	No	Yes	Report Received	
Happy Valley	Received	No	No		
Hillsboro	Received	No	Yes		
Johnson City					
King City				Report Received	
Lake Oswego				Report Received	
Maywood Park	Received ³			Report Received	
Milwaukie					
Oregon City					
Portland	Received	No	No	Report Received	
Rivergrove					
Sherwood					
Tigard	Received	No	Yes	Report Received	
Troutdale	Received	No	Yes	Report Received	
Tualatin	Received	No	No		
West Linn	Received	No	Yes	Report Received	
Wilsonville					
Wood Village	Received	No	No	Report Received	
Clackamas County.	Received	No	No		
Multnomah County.	Received	No	No	Report Received	
Washington County	Received	No	Yes	Report Received	

¹ – January 31, 2002 is the deadline for the first year progress report of Title 7 (Affordable Housing) of the Urban Growth Management Functional Plan amended by the Metro Council in June 2003 (Ordinance No. 03-1005A).

² – December 31, 2003 is the deadline for the second year progress report of Title 7 (Affordable Housing) of the Urban Growth Management Functional Plan amended by the Metro Council in June 2003 (Ordinance No. 03-1005A).

³ – Maywood Park's Report, received December 2003, has not been evaluated for compliance



METRO

COMMITTEE FOR CITIZEN INVOLVEMENT

Mission: TO ASSIST IN DEVELOPMENT, IMPLEMENTATION AND EVALUATION OF CITIZEN INVOLVEMENT ACTIVITIES AT METRO

Report to Metro Council on MCCI business for January, 2004

The MCCI has made several structural changes in the last few months, and this is an update regarding those changes, as well as an update on regular January business.

Structural Changes, including a request for a rotating Council Liaison

- 1 To the council, perhaps the most relevant change we have made is how we communicate with you. In the interest of keeping the council well informed of our activities, the MCCI chair will be coming to report to you once a month, on this fourth Thursday. If the issue calls for it, the chair may be accompanied by other MCCI members, but we will notify you in advance if that is needed, because that would indicate a larger issue to report on than just a monthly update.
- 2 The MCCI has changed its meeting schedule. The full MCCI committee now meets twice a month, first and third Wednesdays from 6-8pm. The subcommittees have been retired, and no longer meet.
- 3 We have noticed that the MCCI no longer has a council liaison at our meetings, and we understand that the council is undergoing some housecleaning regarding committee liaisons in general. With that understanding in mind, we would like the council to consider a creating a rotating liaison to the MCCI.

We understand that the council is very busy, and we thought that if the council rotated, that every councilor would only be taking on the burden of an addition 2 meetings a year. To further ease this request, we have moved our meetings to an earlier start time of 6pm, and would be happy to place the councilor as the first item on our agenda. And now that the MCCI is meeting twice a month, the councilor assigned to the month could pick the most convenient meeting for their presence.

The MCCI is making this request for a few reasons:

First, because while we are excited about the opportunity the council has given us to update you during these council meetings, we also want a chance for you to update us. That is why we think that having the councilors rotate, in addition to being less of a burden, will also be better for both the MCCI and the council.

Second, because we feel that we will be more effective at communicating with our communities if we know you, and the personal areas of emphasis that you all have. The MCCI especially wanted me to request that you not discount the value of informal communication with our committee.

Finally, as we report to the Council what we are working on, and as you suggest to us projects, the MCCI needs to know our business is remaining relevant, and that we haven't lost anything in translation.

Response to Council Requests

- 4 We also want to report back to the council regarding the requests that you made during MCCI's previous appearance before the council earlier this month. The council had requested that if MCCI knew of any specific groups that would be interested in a councilor visit, that we pass that information on to you. The groups came up in our January meeting were as follows:
 - A. The Bethany Neighborhood Coalition, which would love to hear from someone in April or May regarding the Bethany Masterplan; (see Lori Waldo)
 - B. The Sauvie Island Grange, which is interested in the lakes and parks issues; (see Skip White) and
 - C. The Clackamas County CPO, which is interested in Beavercreek and Oak Lodge issues, as the communities consider hamlet/city/township status. (see Norm Andreen & Dick Jones.)
- 5 Another Council request, that the MCCI consider how to reach out of boundary communities, is still under discussion, and we hope to report on that next month.

MCCI January Business

6. The MCCI would also like to formally support the staff proposal regarding the distribution of the council meeting packet. Sue Gemmell reported that there was a proposal to distribute the council meeting information online, with the capabilities to download the meeting packet in pieces, instead of creating so many paper agendas, and the MCCI would like to say that we think that is a fabulous idea.
7. The MCCI would also like to request that the council consider MCCI scholarships to planning conferences, the one last week was \$300 for Thursday, and the two members interested in attending could not afford to go. We feel that money spent educating MCCI members has a good return for the Council, because we pass this information on to our communities, so you get a good value.
8. As MCCI continues with its daily business of evaluating the public involvement plans generated for different Metro projects, we would like to highlight two projects of note: First, MCCI would like to recognize the recent Regional Transportation Plan update, because the public involvement plan was excellent, especially the quick follow-up and the publishing of relevant documents, so we would like to recognize the great work accomplished on that project.
Second, we would like to note that although work on the Cooper Mountain project is well underway, MCCI has yet to even see a PIP for this project.

012904c-05
Al Burns
City of Portland

Resolution No. 36190

Accept the recommended Title 7, Housing Compliance Report to Metro and adopt a voluntary five year housing production goal of 1,791 housing units affordable to extremely low-income households. (Resolution).

WHEREAS, the Metro Council, the Portland area regional government charged with long range growth management, has determined that affordable housing is a matter of regional concern and would benefit from long range planning.

WHEREAS, the Metro Council adopted *Regional Growth Goals and Objectives* (RUGGO) in 1991, and the 2040 Growth Concept in 1995 to plan for long range growth management and incorporated it into the Metro Code as Section 3.07.

WHEREAS, the Metro Council adopted the *Urban Growth Management Functional Plan* in 1996 to implement the growth concept.

WHEREAS, *Urban Growth Management Functional Plan* includes Title 7 regarding affordable housing and Title 8 regarding definitions, which recommended changes to comprehensive plans and related actions including implementing regulations by local jurisdictions.

WHEREAS, the Metro Council adopted the *Regional Framework Plan* in 1997, which includes Section 1.3, Housing and Affordable Housing, and which established policies related to housing and affordable housing.

WHEREAS, the Metro Council amended Section 1.3 of the *Regional Framework Plan* in 1998 to authorize the creation of the Affordable Housing Technical Advisory Committee (HTAC) that was charged by the Metro Code to draft and recommend a regional affordable housing strategy for the adoption by the Metro Council.

WHEREAS, HTAC met from September of 1998 to June of 2000 to develop the affordable housing production goals and implementation strategies described in the *Regional Affordable Housing Strategy* (RAHS) and forwarded its final recommendations in June 2000 to the Metro Council.

WHEREAS, Metro Council amended the *Regional Framework Plan* and *Urban Growth Management Functional Plan* by adoption of Ordinance No. 00-882C on January 18, 2001, and subsequent actions to incorporate some of its recommendations.

WHEREAS, Ordinance 00-882C, amended Section 1.3 of the *Regional Framework Plan* and Titles 7 and 8 of the and *Urban Growth Management Functional Plan* to include

voluntary affordable housing production goals and requirements for changes to comprehensive plans and implementing ordinances.

WHEREAS, the purpose of these amendments is to ensure that the comprehensive plans and implementing ordinances of local jurisdictions:

1. Include strategies to ensure a diverse range of housing types within their jurisdictional boundaries.
2. Include in their plans, actions and implementation measures designed to maintain the existing supply of affordable housing as well as increase the opportunities for new dispersed affordable housing within their boundaries.
3. Include plan policies, actions, and implementation measures aimed at increasing opportunities for households of all income levels to live within their individual jurisdictions in affordable housing.

WHEREAS, Ordinance 00-882C initiated a series of reporting requirements by local jurisdictions on their progress in achieving the goals of the *Regional Affordable Housing Strategy* (RAHS).

WHEREAS, in April 2002, the City of Portland submitted its first round of reporting on the City's actions and on a variety of land use and other tools and strategies to promote broader affordable housing opportunities.

WHEREAS, the Metro Council in the summer of 2003 amended Title 7 reporting requirements to specify more clearly the minimum actions which must be taken by local jurisdictions to achieve compliance with Section 1.3 of the *Regional Framework Plan*.

WHEREAS, City of Portland Planning Bureau staff, in consultation with staff from the Bureau of Housing and Community Development and the Portland Development Commission, has produced the report attached as Exhibit A that reports to Metro on the status of the City's *Comprehensive Plan* and implementing ordinances explaining the consideration of each tool listed in subsection 3.07.730B of the Metro Code.

WHEREAS, the City of Portland and Multnomah County have entered into an urban planning area agreement, the City acknowledges and accepts the responsibility to employ land use regulatory strategies that assist in the accomplishment of the goals for that portion of unincorporated Multnomah County subject to the joint planning agreement.

WHEREAS, the unincorporated portions of Multnomah County covered by the agreement are those areas within Portland's urban services boundary, which it eventually plans to annex to the City.

WHEREAS, Multnomah County has adopted the City of Portland *Comprehensive Plan* and the Planning and Zoning Code for those areas covered by the urban planning area agreement.

WHEREAS, the City of Portland's compliance report in Exhibit A should be sufficient for the reporting requirements of Metro Ordinance No. 00-882C for these areas of unincorporated Multnomah County.

WHEREAS, Ordinance No. 00-882C also included an amendment to Title 7 of the *Urban Growth Management Functional Plan* that sets five year voluntary housing production goals for the time period of 2001-2006 for adoption by each city and county under Metro's jurisdiction. These Affordable Housing Production Goals are listed in Table 3.07-7 of the Metro Code.

WHEREAS, the aspirational Affordable Housing Production Goal for the City of Portland is 1,791 housing units affordable to households at or below 30 percent of median area income.

WHEREAS, the City of Portland acknowledges that unit production is a tangible measure of local progress in making housing opportunities available to the lowest-income households, but that unit goals may be difficult to achieve given current resources

WHEREAS, the City of Portland remains committed to the development of a permanent source of regional funding to meet affordable housing needs, including the needs of the lowest-income households.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Portland, a municipal corporation of the State of Oregon, that the City of Portland accept the recommended Title 7, Housing Compliance Report in Exhibit A and forward it to Metro to satisfy the City's reporting requirements under Title 7 of Metro's *Urban Growth Management Functional Plan*.

BE IT FURTHER RESOLVED by the Council of the City of Portland, a municipal corporation of the State of Oregon, that the City of Portland ask Metro to accept its Title 7 Compliance Report for the unincorporated areas of Multnomah County for which it has entered into an urban area planning agreement.

BE IT FURTHER RESOLVED by the Council of the City of Portland, a municipal corporation of the State of Oregon, that the City of Portland adopt the voluntary affordable housing production goal of 1,791 new housing units for the five year reporting period that are affordable to households at or below 30 percent of area median income as required by Title 7 of Metro's *Urban Growth Management Functional Plan*.

BE IT FURTHER RESOLVED by the Council of the City of Portland, a municipal corporation of the State of Oregon, that City of Portland adopts this resolution as a non-binding city policy.

Adopted by the Council, **DEC 17 2003**
Mayor Vera Katz, Commissioner Erik Sten
Barbara Sack
December 17, 2003

GARY BLACKMER
Auditor of the City of Portland
By

Susan Parsons
Deputy

Title 7, Housing Compliance Report to Metro

Second Round Reporting Requirements

SECTION ONE—Findings and Recommendations

Findings

- Housing development assistance is an integrated part of Portland policy and program implementation with the involvement of the Bureaus of Housing and Community Development, Planning, and the Portland Development Commission. Several other bureaus are directly or indirectly involved with housing development, preservation, or regulation; for example, the Office of Sustainable Development and the Bureau of Development Services.
- In 1941, the City created the Housing Authority of Portland which oversees an inventory of approximately 2,800 public housing units, 3,900 affordable (up to 80 percent of area median income) housing units, 405 special needs units, and administers the Section 8 Rental Assistance programs (7,500 Housing Choice vouchers). The City and the Housing Authority have engaged in several development partnerships over the years. Currently the City is contributing approximately \$20 million to the HOPE VI New Columbia project in the Portsmouth Neighborhood.
- The city adopted an updated Goal 4 Housing as part of its Comprehensive Plan in 1998. At that time discussions of regional housing policy were taking place with Metro and other regional jurisdictions. The City's Housing Policy reflects those discussions and complies with the policy directives of the Regional Affordable Housing Strategy. Built into the adopted Policy is an evaluation method to determine the extent of potential strategy implementation.
- On January 1, 2003 the single family new construction tax exemption program for distressed areas sunsetted due to the failure of the 2003 Oregon Legislature to pass to HB2379 which would have extended the program to 2014. This program has assisted the production of over 2,000 units in the City of Portland since 1992.

Recommendations

- Continue to seek a permanent, significant, and flexible source of funding for low income housing through the newly established regional Blue Ribbon Committee on Resource Development.
- Establish an annual method of tracking all housing expenditures, reporting the outcomes in terms of numbers of units developed or preserved, and ensuring that expenditures are consistent with city and regional policy. Consider the 2000 Housing Audit for methodology and format.
- Begin the work necessary to re-institute the New Single Family Property Tax Exemption Program (ORS 458.005-.065) during the 2005 State Legislative Session.

SECTION TWO—Introduction

On January 18, 2001, the Metro Council adopted Ordinance No. 00-882C, amending the Regional Framework Plan and Urban Growth Management Functional Plan. The adoption of this Plan initiated a series of reporting requirements by local jurisdictions on their progress in achieving the goals of the Regional Affordable Housing Strategy (RAHS). On January 14, 2002, Metro's Executive Officer, Mike Burton notified area jurisdictions of their first year reporting obligations under Title 7, Affordable Housing, of the Urban Growth Management Functional Plan. In April 2002, the City of Portland submitted its first round of reporting which constituted a brief summary of the City's actions on a variety of land use and other tools and strategies designed to promote broader affordable housing opportunities, especially to those households earning between 0 and 80 percent of the area median income.

To demonstrate compliance with Title 7, local jurisdictions must:

1. Include strategies to ensure a diverse range of housing types within their jurisdictional boundaries.
2. Include in their plans actions and implementation measures designed to maintain the existing supply of affordable housing as well as increase the opportunities for new dispersed affordable housing within their boundaries.
3. Include plan policies, actions, and implementation measures aimed at increasing opportunities for households of all income levels to live within their individual jurisdictions in affordable housing.

In the summer of 2003, after the first round of reporting, the Metro Council amended the Title 7 reporting requirements to specify more clearly the minimum actions local jurisdictions must take in order to achieve compliance with the housing elements of the Regional Functional and Framework Plans. The relevant Metro legislation which addresses the reporting requirements are stated as follows:

3.07.740 Requirements for Progress Report

Progress made by local jurisdictions in amending comprehensive plans and implementing ordinances and consideration of land use related affordable housing tools and strategies to meet the voluntary affordable housing production goals shall be reported according to the following schedule:

- A. By January 31, 2002, cities and counties within the Metro region shall submit a brief status report to Metro as to what items they have considered and which items remain to be considered. This analysis could include identification of affordable housing land use tools currently in use as well as consideration of the land use tools in Section 3.07.730(B).
- B. By December 31, 2003, each city and county within the Metro region shall provide a report to Metro on the status of its comprehensive plan and implementing ordinances explaining how each tool and strategy in subsection 3.07.730B was considered by its governing body. The report shall describe comprehensive plan and implementing ordinance amendments pending or adopted to implement each tool and strategy, or shall explain why the city or county decided not to adopt it.
- C. By June 30, 2004, each city and county within the Metro region shall report to Metro on the outcome of the amendments to its comprehensive plan and

implementing ordinances pending at the time of submittal of the report described in subsection B of this section and on the public response, if any, to any implementation adopted by the city or county to increase the community's stock of affordable housing, including but not limited to the tools and strategies in subsection 3.07.730B.

Simply stated, the first round of reporting noted in Section 3.07.740 A, above, addresses the immediate legislative responses jurisdictions have taken, or could take, to consider strategies that would promote affordable housing production and preservation as suggested by the regional Affordable Housing Technical Advisory Committee (HTAC). HTAC was an ad hoc citizens and local government Committee charged by Metro to open the regional affordable housing dialogue. The City of Portland was an active participant in this Committee.

The next round of reporting focuses on fundamental legislative and policy actions local governments have taken as reflected by local Comprehensive Plan compliance with the regional goals expressed by Title 7. ***This report by the City of Portland responds to this directive.*** This report is due to Metro by December 31, 2003 as noted in Section 3.07.740 B, above.

In 2004, it is expected that Metro, in cooperation with local jurisdictions, will conduct an "on the ground" assessment of the current housing stock and measure progress made locally in achieving the numerical voluntary affordable housing goals adopted as part of the regional strategy.

Finally, in its 2003 amendments to Title 7, Metro clarified what actions local governments must take to demonstrate consideration of local policy, plans, implementing ordinances, goals, etc. that fulfill regional requirements. The City of Portland intends to indicate compliance by acceptance of this report by the Portland City Council and consideration and adoption of a resolution acknowledging the affordable housing goals established for the City by the Regional Affordable Housing Strategy and Title 7.

SECTION THREE—Summary of Portland’s First Round of Reporting

In its first round of reporting in 2002, the City of Portland noted the adoption of the following (primarily land use) tools that fulfill its regional housing requirement. These tools incorporate the concepts included in Title 7 such as *transfer of density rights (TDRs)*, *density bonuses*, *housing replacement requirements*, *(contractual) inclusionary housing options*, *overcoming barriers to housing for the elderly and disables*, *parking flexibility*. Where possible, these are listed under each regulatory concept cited in the Framework Plan.

Transfer of Density Rights

- Cluster Development and PUDs permitted throughout the city (33.638 of the Portland Zoning Code)
- Housing (including SROs) TDR opportunities in the Central City (33.510.200)

Density Bonuses

- Alternative Development Options in Single Family Zones (33.110.240)
 - Attached Housing (Two Units in R20 through R5 Zones)
 - Duplex Conversion of Existing SFR in R2.5 Zone
 - Duplexes and Rowhouses on Corners in Single Family Zones
 - Higher Density on Transitional Lots (adjacent to commercial zones)
 - Zero Lot Line Development
- Mixed-Use Opportunities in Several Zones (Esp. the CM zone) with Additional FAR for Residential Component in commercial zones (33.130.250)
- Accessory Rental Units in Single Family Houses (Chapter 33.205)
- Liberalized Substandard Residential Lot Regulations (33.291) (33.110.212 and .213)
- Amenity Bonuses in R3, R2, and R1 Zones (33.120.265)
 - Outdoor Recreation Facilities Crime Prevention
 - Children’s Play Areas Energy-Efficiency
 - Three Bedroom Units Solar Water Heating
 - Storage Areas Larger Outdoor Areas
 - Sound Insulation
- Floor area (FAR) and height bonuses in the Central City (33.510.210)
 - FAR bonuses include ones for:
 - Residential development in the CX and EX zones for middle income (and below) housing
 - Contributions to the Affordable Housing Replacement Fund
 - Height bonus for housing
- Height and FAR bonuses in the Northwest Plan District for(33.562.230):
 - Height bonus for residential development in Bonus Area A
 - Height and FAR bonuses for affordable housing in Bonus areas A, B and C

Inclusionary Housing

- Required Residential Development Areas in the Central City (33.510.230)
- Housing Implementation Strategies and/or developer agreements in all urban renewal districts

Housing Replacement

- Requirement for replacement of lost potential housing in Comprehensive Plan Map amendments (33.810.050)
- Demolition Delay for housing on residentially zoned land. (Title 24, Buildings, 24.55.200)
- Mitigation for lost housing on certain RX zoned sites in the West End north of Salmon Street (33.510.118)

Housing for the Elderly and Disabled

- Density Bonuses for Housing for the Elderly and Handicapped (33.229)
- SRO Housing as Permitted Structure Type in R1, RH, and RX Zones (33.120.200)
- Mobile home parks allowed in R2 and R3 zones (33.120 and 33.251)

Parking Regulations

- No more than one parking space required for any housing unit with liberal adjustment options for less or no parking for units within the Central City and near public transit. (33.266)
- No parking required for new residential developments of five units or less in the Albina Community Plan District (33.505.220)

In addition, the City has adopted the following tools which further affordable housing development opportunities:

- Manufactured Housing in Single Family Zones (33.251)
- Minimum Density Requirements in Multi-Family Zones (33.120.205)
- Minimum Density Requirements in Single Family Land Divisions (33.610.100)
- The R2.5 Attached Single Family Housing (Rowhouse) Zone (33.110)
- Metropolitan Housing Rule for Minimum Densities and Single Family/Multi-Family Split (OAR 660-07030 and -035)

Several of these tools respond to other State or regionally mandated strategies for more affordable housing development.

Strategies considered but not adopted by the City include:

Commercial Linkage Fee for Affordable Housing. This strategy which would impose a fee per square foot of commercial or other nonresidential development in the Central City for a dedicated housing fund was considered as part of the Central City No Net Loss Housing Policy. It was determined that the funds generated by this strategy would not be sufficient to overcome legal and political barriers.

Condominium Conversion Restrictions. The City currently requires relocation assistance for low-income tenants of properties converted to condominiums. Further regulations were also considered as part of the Central City No Net Loss Policy. It was decided to forego further action since most condominium conversion activity occurs outside the boundaries of the Central City and such conversions provide additional homebuying opportunities in inner-city neighborhoods.

Other Non Land Use Initiatives

The City administers several programs offering limited property tax exemption for new renter and owner-occupied housing construction in the Central City, Urban Renewal, and Transit Oriented Areas; new single family housing in Distressed Areas (renamed Homebuyer Opportunity Areas); renter and owner-occupied housing rehabilitation; and low-income rental housing owned or managed by nonprofit community development corporations.

The City continues to assist local nonprofit development corporations in accessing tax foreclosed properties offered by Multnomah County. A limited amount of land banking is conducted in urban renewal areas targeted for housing development. The Portland Community Land Trust was developed with the support of the City's Bureau of Housing and Community Development. Off site improvements funded by the City have been essential for the successful development of areas such as the River District and, in the future, the South Waterfront Area.

Other non-land use strategies recently undertaken by the City include the following:

- Staffing and funding support for the web based Housing Connections site that provides a single regional information source of low-income housing and service availability
- Funding support for the Portland Housing Center
- Funding support for African-American, Latino, and Asian-American Homebuyer Fairs
- Policy and funding assistance for the HOPE VI project undertaken by the Housing Authority of Portland
- Extensive (typically 50 percent) use of annual Community Development Block Grant funds for direct and indirect housing activities
- Leadership of the HOME consortium and the Housing for Persons with AIDS consortium
- Ongoing coordination with Multnomah County jurisdictions in the development of the countywide Consolidated Plan and staff support for the Housing and Community Development Commission
- Continued support for a regional Real Estate Transfer Fee
- Expenditure of tax increment funds (TIF) on the preservation and new construction of low income housing
- Sixty year affordability requirement in exchange for receiving city subsidy for the purpose of creating or preserving rental housing for households at 80 percent of area median income or below.
- Public and private funding of the Portland Neighborhood Development Support Collaborative providing operational support for community development corporations.
- Establishment of a Regional Blue Ribbon Committee on Housing Resource Development to develop and implementation of a strategy for securing new resources for affordable housing.

SECTION FOUR—Round Two Reporting Requirements

In this second round of reporting to Metro, local jurisdictions must demonstrate a longer range consideration of the policy underpinnings for local strategies and tools. This can be shown by citing regionally consistent local housing policy and resulting tools that carry out this policy.

3.07.730 Requirement for Comprehensive Plan and Implementing Ordinance Changes

- A. Cities and counties within the Metro region shall ensure that their comprehensive plans and implementing ordinances:
 - 1. Include strategies to ensure a diverse range of housing types within their jurisdictional boundaries.
 - 2. Include in their plans, actions and implementation measures designed to maintain the existing supply of affordable housing as well as increase the opportunities for new dispersed affordable housing within their boundaries.
 - 3. Include plan policies, action, and implementation measures aimed at increasing opportunities for households of all income levels to live within their individual jurisdictions in affordable housing.

City of Portland Response

An update of the Housing Goal 4 of the Portland Comprehensive Plan was completed and adopted in late 1998. The development of these Policies and associated Objectives was heavily influenced by concurrent discussions of regional housing issues that were occurring during that period. As noted in the Adopted Comprehensive Plan Housing Policy report (Plan Amendments adopted by Ordinance No. 172954 and strategies accepted by Resolution No. 35748, both December 2, 1998):

“The objectives of this [citywide housing policy] review was to ensure that the housing goal, and its policies and objectives, reflect the new policy direction that has emerged from adopted community and neighborhood plans, the Region 2040 Growth Concept and *Urban Growth Management Functional Plan*, the *State Transportation Planning Rule*, and from plans such as the Comprehensive Housing Affordability Strategy (CHAS), and its successor, the Consolidated Plan that focus on low and moderate-income housing in the city.”

The report further states:

“The city’s Housing Policy guides a variety of city activities. These activities include enforcement, education, technical assistance and training; loans or grants of federal or local funds, and property tax abatements. The city develops new housing programs or strategies in response to concerns identified through area or community plans, urban renewal plans, or citywide housing plans.”

In particular, the following Policies, Objectives and Strategies of the Portland Comprehensive Plan speak specifically to issues of regional concern:

Goal 4 Housing

Enhance Portland's vitality as a community at the center of the region's housing market by providing housing of different types, tenures, density, sizes, costs, and locations that accommodate the needs, preferences, and financial capabilities of current and future households.

Policy 4.1 Housing Availability, Objective A. Designate sufficient buildable land for residential development to accommodate Portland's share of regional household growth to reduce the need for urban growth boundary expansions.

Policy 4.2 Sustainable Housing, Objective A. Place new residential developments at locations that increase potential ridership on the regional transit system and support the Central City as the region's employment and cultural center.

Objective B. Establish development patterns that combine residential with other compatible uses in mixed-use areas such as the Central City, Gateway Regional Center, Station Communities, Town Centers, Main Streets, and Corridors.

Objective C. Encourage the development of housing at transit-supportive densities near transit streets, especially where parks or schools are present, to ensure that the benefits of the public's investment in those facilities are available to as many households as possible.

Policy 4.7 Balanced Communities, Objective A. Achieve a distribution of household incomes similar to the distribution of household incomes found citywide, in the Central City, Gateway Regional Center, in town centers, and in large redevelopment projects.

Objective G. Encourage the development and preservation of housing that serves a range of household income levels at locations near public transit and employment opportunities.

Objective I. Expand homeownership opportunities for existing residents in neighborhoods with homeownership rates lower than the regional average.

Objective J. Expand multi-dwelling and rental housing opportunities in neighborhoods with homeownership rates higher than the regional average.

Policy 4.8 Regional Housing Opportunities. Ensure opportunities for economic and racial integration throughout the region by advocating for the development of a range of housing options affordable to all income levels throughout the region.

Objective A. Advocate for the development of a regional "fair share" strategy for meeting the housing needs of low, moderate, and higher-income households and people in protected classes in cities and counties throughout the region.

Objective B. Support regulations and incentives that encourage the production and preservation of housing that is affordable at all income levels throughout the region.

Objective C. Work with Metro and other jurisdictions to secure greater regional participation in addressing the housing needs of people who are homeless, low-income or members of protected classes.

In addition to this Policy, several existing strategies undertaken by the City were noted in the adopted Housing Goal of the Comprehensive Plan. These include:

1. Provide technical support to Metro's Affordable Housing Technical Advisory Committee (Bureau of Planning)
2. Participate in development and implementation of new regional strategies. (BOP)
3. Advocate for adoption of regionally consistent regulations and incentives that have been proven effective through local implementation. (BOP)
4. Pursue regional models of permanent affordability and retention/recapture of public subsidy in homeownership programs (Bureau of Housing and Community Development/BOP)
5. Evaluate impacts of proposed regulatory tools such as a replacement ordinance, and inclusionary zoning in regional context. (BOP)

Policy 4.9 Fair Housing, Objective A. Support programs that increase opportunities for minorities, low-income people, and people in protected classes to gain access to housing throughout the region.

Note that the above policies and objectives directly speak to the regional context. A document containing the full range of policies is enclosed with this response.

SECTION FIVE—Progress Made in Implementing Potential Strategies

Under most of the newly adopted Goal, Policies and Objectives were listed several Existing Strategies and Potential Strategies. The *adopted Comprehensive Plan Housing Policy* lists 192 existing strategies currently undertaken by the City. The Policy document also lists 55 potential strategies which are included in this report in the following matrix as a means of evaluating the City's progress in considering and implementing these strategies.

As noted in the *Comprehensive Plan Housing Policy* (January 1999),

“The **existing strategies** reflect actual zoning and building code regulations, existing ordinances, or city housing programs. The **potential strategies** are included to give some ideas about alternative or additional methods of implementing policy.” Also, “City Council accepted these strategies by resolution as representative of the linkage between policies and objectives, and strategies. *The inclusion of strategies in this document, either existing or potential, does not commit the City to adopt them or commit funds for their implementation.* The explicit linkage of strategies to policies provides a basis for future evaluation and feedback on the policies.”

An assessment of progress in implementing these potential strategies follows:

Potential Strategies—Consideration and Outcomes

Strategy (Suggested Implementers, when noted)	Considered?	Action
<p>1. Develop coordinated strategies, which are periodically evaluated and updated, to: a) Attract developer interest and investment in projects consistent with policy and plans; b) Attract private investment in segments of the housing market the city wishes to encourage; c) Develop greater city and state financial resources available to provide incentives to finance critical projects. (BOP/PDC/BHCD/HAP)</p>	Yes	<ul style="list-style-type: none"> • Establishment of a Regional Blue Ribbon Committee on Housing Resource Development (Mayor and City Commissioner) • Adoption of Urban Renewal Area Housing Strategies consistent with Comprehensive Plan goals (PDC) • Developing a marketing and outreach strategy for housing development focusing on housing goals (PDC) • Coordinating resources for housing development—joint PDC/HAP Request for Proposals (RFP) process (PDC/BHCD/HAP) • Instituting annual monitoring of housing production <ol style="list-style-type: none"> 1. Housing Audit and SEA, (Auditor/PDC/BHCD/BOP) 2. HEG report (HCDC/PDC) 3. Consolidated Urban Renewal Area Housing Report and Housing Production Report (PDC)
<p>2. Periodically evaluate private lender participation in providing capital to the development of affordable housing. (BHCD/HCDC/OMF)</p>	Yes	<p>Housing development sources and uses for affordable housing tracked and monitored ongoing in terms of leverage. (PDC). Housing Evaluation Group issues annual reports documenting private lender participation.</p>
<p>3. Monitor and evaluate the cumulative impact of regulations (zoning and building codes), and required infrastructure on the ability of the market to meet housing demand at different price levels (BOP/BDS)</p>	Yes	<ul style="list-style-type: none"> • Periodic and ongoing assessment of land use regulations in order to determine efficiency of implementation and actual results; e.g., impact on accessory rental development. • Allowance of small detached units on 2,500 sq. ft. lots in R2 and R2.5 zones.
<p>4. Review city housing assistance programs to ensure compatibility of programs with policy. (BOP/PDC/BHCD)</p>	Yes	<ul style="list-style-type: none"> • Housing Audit completed in 2002 (Auditor/PDC/BHCD/BOP) • Development of PDC and BHCD Strategic Plans (PDC/BHCD) • Housing Program Guidelines Committee reviews new and existing housing finance programs offered by the city (PDC/HCDC/BHCD/BOP) • The Homeowners Advisory Committee, the Housing Evaluation Group, and the Special Needs Committee (all of HCDC) have issued reports assessing consistency with ConPlan and other housing policies.
<p>5. As part of Portland's next Periodic Review, evaluate actual housing production data by zone (residential, commercial and employment categories) to determine effectiveness of policy in ensuring compliance with the Metropolitan Housing Rule and Urban Growth Management Functional Plan. (BOP)</p>	Yes	<p>Required by the State and regional Periodic Review Process. Portland Comprehensive Plan currently complies.</p>

Strategy (Suggested Implementers, when noted)	Considered?	Action
6. Design and adopt a process to authorize public investment in infrastructure to support housing guided by principles of sound financial management and analysis; an open public process; and thorough evaluation of projects/proposals against City Council goals and City policies (inter-Bureau)	Yes	<ul style="list-style-type: none"> • Annual reports by the Housing Evaluation Group (HEG) report plan consistency. • 2000 Housing Report by City Auditor documents inter-Bureau policy consistency. • BOP coordinates public investment process through an inter-Bureau advisory committee
7. Explore feasibility of adapting city housing programs for consistency with adopted Sustainable City principles. (PDC)	Yes	Establishment of Green Building Policy and Principles "Greening Portland's Affordable Housing: A Resource Guide to Improving Environmental Performance, Tenant Health and Long Term Durability in Affordable Housing" (PDC/OSD)
8. Promote housing construction with recycled materials (plastic timber, aluminum studs, etc. (BES)	Yes	Creation of Office of Sustainable Development has resulted in guidelines and progress assessment of green building methods. Project examples: Johnson Creek Commons, Douglas Meadows.
9. Develop incentives to encourage reuse and recycling of resources (e.g. capturing stormwater for irrigation, laundry, cooling water, etc. consistent with City Green Scan Initiative, and creative design solution such as roof gardens for stormwater management. (BES)	Yes	<ul style="list-style-type: none"> • Projects examples include: the Brewery Blocks, Station Place. Portland has most examples of residential green building projects. • Green Investment Fund is a performance-based grant program to assist innovative green building projects in Portland. Grants distributed to 68 projects in four tracks - affordable housing, residential buildings, commercial buildings and emerging technologies.
10. Develop a strategy to systematically inspect substandard housing that violates the minimum requirements of Title 29, Property Maintenance Code (BDS/BHCD)	Yes	BHCD has funded targeted building inspection programs.
11. Develop procedure for the transfer of abandoned properties with excessive city liens to nonprofit corporations. (Auditor/BDS)	Yes	Office of Development Services has administered the use of city liens to enforce the corrections of violations. This threat of condemnation has been effective in achieving compliance in several cases.
12. Encourage developers to provide enhanced security features (door bracing, strike plate, etc.) as outlined in Appendix Chapter 10 of the Oregon Structural Specialty code. (Police/BDS/PDC)	Yes	The ODS pre-application conference for major projects requiring land use review provides a forum for Police advice on structural security features.
13. Use enhanced security features as appropriate in city-assisted multi-dwelling housing developments and collect data on cost/benefit. (PDC)	Yes	The Police planning function provides periodic assessment of effectiveness of security features.
14. Explore feasibility of adopting Chapter 41 for citywide use. (Police/BDS/PDC)	No	This has not yet occurred.

Strategy (Suggested Implementers, when noted)	Considered?	Action
15. Explore preservation and replacement strategies similar to River District Housing Implementation Strategy in other areas. (PDC/BHCD)	Yes	<ul style="list-style-type: none"> Establishment of the Central City No Net Loss policy and strategy and incorporation of preservation and replacement housing goals in Urban Renewal Area Housing Strategies (PDC) Urban renewal districts with housing development potential have separate Housing Implementation Strategies.
16. Develop strategies to encourage private investment in housing the city wishes to encourage to achieve a balance [among incomes and tenure] (PDC/BHCD)	Yes	Establishment of the Central City No Net Loss policy and strategy and incorporation of preservation and replacement housing goals in Urban Renewal Area Housing Strategies (PDC)
17. Evaluate tax abatement programs periodically to determine if units for a balance of household incomes is produced. (BOP)	Yes	<ul style="list-style-type: none"> In process: evaluation of tax abatement programs (PDC/BOP) HCDC recommended and City approved tighter applicant requirements for the Single Family Tax Exemption Program.
18. Explore feasibility of offering incentive for development of accessory dwelling units. (BHCD/BOP)	Yes	<ul style="list-style-type: none"> Several financial incentives allow accessory rental development. Regulations are periodically assessed for effectiveness.
19. Explore option of adding a density bonus for mixed-income housing developments.	Yes	All density bonuses applied to mixed-income developments. Financial assistance works in concert with such bonus incentives. Project example include: Cornerstone Condo, Museum Place, Arbor Vista Condos, etc.
20. Ensure compliance with potential Metro Provisions for regional inclusionary housing program.	Yes	State law has pre-empted mandatory inclusionary housing programs at the local level. The City, however, includes inclusionary housing for low and moderate income households tied to local funding assistance.
21. Develop other strategies to encourage mixed-income (e.g., inclusion of smaller units among mix in multi-dwelling projects).	Yes	Financing mixed-income housing projects (PDC) Spring 2003 RFP awarded fund to many smaller units.
22. Allocate city-controlled housing subsidy resources in a manner that increases opportunities for low-income households to locate throughout the city.	Yes	<ul style="list-style-type: none"> Through RFP process and asset management initiatives, City is focusing funding on creating and preserving low-income housing opportunities. Documented in Housing Evaluation Group report. BHCD's new strategic plan announces intent to focus housing resources on ending institution of homelessness and increasing housing opportunities for households at 0-50% MFI. Use of HIF/CDBG/HOME dollars for housing development predominantly outside of Central City (PDC/BHCD)

Strategy (Suggested Implementers, when noted)	Considered?	Action
23. Review city housing programs to 1) Identify and remove barriers that discourage mixed-income development; 2) Identify new mechanisms to encourage or require mixed-income housing developments (or communities). (HCDC)	Yes	<ul style="list-style-type: none"> • PDC has adopted urban renewal district housing implementation strategies, with participation from HCDC, that encourage mixed-income development.. • The HCDC Special Needs Committee convened County-wide group of funders and developers, quantified need for supportive housing, and adopted recommendations to increase supply of housing linked to services throughout Multnomah County
24. Encourage developers and funders to develop and locate housing for extremely low and very low-income people and housing with supportive services throughout the city and the Portland metropolitan area.	Yes	<ul style="list-style-type: none"> • HCDC Special Needs Housing Subcommittee Report and Recommendations (HCDC) • Recent focus of HIF/CDBG/HOME dollars for special needs and supportive housing (PDC/BHCD/HAP)
25. Explore feasibility of developing regulatory incentives such as a density bonus for development of mixed-income housing. (BOP)	Yes	Several housing related bonuses have been added to the Central City with the adoption of the West End Plan.
26. Support city-county process to develop social services siting policies (City Council)	Yes	The City has adopted the Strategies for Fair Housing in order to comply with federal fair housing law.
27. Coordinate geographic targeting to ensure maximum leverage of tools and resources, and to avoid confusion and overlap. (BHCD/BOP/PDC)	Yes	The Consolidated Plan is a mechanism to coordinate the expenditure of federal housing assistance funds. It is an inter-jurisdictional plan covering all of Multnomah County.
28. Develop a monitoring and evaluation plan for performance and completion. (BHCD/PDC/BOP)	Yes	Establishment of an annual monitoring reports relevant to housing production: <ul style="list-style-type: none"> • Housing Audit and SEA, (Auditor/PDC/BHCD/BOP) • HEG report (HCDC/PDC) • Consolidated Urban Renewal Area Housing Report and Housing Production Report (PDC)
29. Periodically evaluate existing tax abatement and incentive programs to determine the income level actually served and the level of affordability. (BOP/PDC/HCDC)	Yes	In the process of evaluating tax abatement programs (PDC/BOP) Recent amendments to Single Family Tax Exemption Program.
30. Administer Transit Oriented Abatement program and Housing Investment Fund to encourage innovative housing (mixed-income, transit-oriented) and housing affordable to households below 60 percent area median income. (PDC/BDS)	Yes	Recently assisted mixed income TOD projects in Goose Hollow, Center Commons, Broadway, etc. (PDC)

Strategy (Suggested Implementers, when noted)	Considered?	Action
31. Review city housing programs and private lending programs for geographic eligibility criteria to determine if gaps or barriers exist. (PDC/BHCD)	Yes	<ul style="list-style-type: none"> • Housing Program Guidelines Committee reviews new and existing housing finance programs offered by the city (PDC/HCDC/BHCD/BOP) • Resource development efforts to expand resources available outside of urban renewal areas.(PDC/BHCD/Commissioner Sten) • Under the Consolidated Plan, CDBG resources for new construction are focused on designated areas with revitalization plans.
32. Expand multi-dwelling and rental housing opportunities in neighborhoods with homeownership rates higher than the regional average through legislative and area plans. (BOP)	Yes	<ul style="list-style-type: none"> • All area, neighborhood, and community plans developed in BOP apply these Comprehensive Plan policies in the recommended zoning patterns and in the application of regulatory tools to promote a variety of residential development opportunities.
33. Develop strategies that support residential mobility for low-income households (e.g., portability of Section 8 certificates, technical assistance for non-profit developers outside the City of Portland).	Yes	<ul style="list-style-type: none"> • The Housing Connections (web site) Program supports residential mobility. • BHCD has provided technical assistance to developers and jurisdictions outside of Portland, e.g. Lake Oswego.
34. Explore feasibility of developing regional revenue options to support housing and services for populations whose needs cross jurisdictional boundaries. (BHCD/OMF)	Yes	<ul style="list-style-type: none"> • Efforts to pass legislation that would have authorized a regional Real Estate Transfer Fee were defeated in the last Legislative session. A whitepaper was produced evaluating options for obtaining significant new revenues for affordable housing. In December, 2003, Mayor Vera Katz and Commissioner Erik Sten convened a new tri-county Blue Ribbon Commission on Resource Development to develop a winnable strategy for new affordable housing resources. • Evaluated Special Need population housing and service needs in HCDC Special Needs Committee Report (HCDC)
35. Develop residential "mobility" strategies (e.g., promote Section 8 portability, consider technical assistance to non-profits and CDCs outside the city.	Yes	(See 33, above)
36. Consider impact on public schools in design and evaluation of city housing programs (e.g., tailor homebuyer programs to boost enrollment in school enrollment area). (BOP/BHCD/PDC)	Yes	<ul style="list-style-type: none"> • Supporting development of new homeownership options (PDC) • Providing a wider range of homebuyer assistance targeted to low income neighborhoods (PDC/BHCD) • BHCD is engaged in discussions with public schools on school-friendly housing policy

Strategy (Suggested Implementers, when noted)	Considered?	Action
37. Identify gaps in private sector production of housing appropriate for households with children and develop strategies to address these gaps. (BHCD/PDC)	Yes	<ul style="list-style-type: none"> • Supporting development of family sized rental and ownership housing in URAs (PDC) • Prioritizing family-sized rental units for HIF/CDBG/HOME expenditures (PDC/BHCD) • HCDC Housing Evaluation Group report documents increase in production of these units.
38. Work with lender to develop financial tools to assist low-income households become owners of units converted to condominiums (BHCD/PDC)	Yes	BHCD has funded the Portland Community Land Trust and a variety of low-income home-ownership education and down payment programs through the Portland Housing Center.
39. Encourage City Council and City-School Liaison to review the City School Policy adopted in 1979	Yes	This has been an ongoing function of the Mayor's Office.
40. Develop strategies to ensure sufficient housing available for households at each income niche along the housing spectrum.	Yes	The entire body of City Housing Policies (Consolidated Plan, Urban Renewal, and Comprehensive Plan) guide the development of these strategies for all income groups.
41. Collaborate with other public and private sector entities to define respective roles, and to develop the menu of tools necessary to encourage housing development for each income target.	Yes	<ul style="list-style-type: none"> • Recent collaboration between PDC, BHCD, Enterprise Foundation, State of Oregon, County and CDC Network to explore resources and responsibilities (i.e. Resource Mapping exercise) • The HCDC Special Needs Committee, the new Citizens Commission on Homelessness, both include public and private sector entities and are focused on defining goals and serving the lowest income populations.
42. Develop public and private financing strategies to ensure that affordability targets for all income groups are met and maintained over time.	Yes	<ul style="list-style-type: none"> • Instituted 60-year affordability agreements for subsidized rental housing (PDC) • Have retention and recapture mechanisms for ownership subsidy programs (PDC/BHCD)
43. Encourage cost effective weatherization when homes are sold. (Office of Sustainable Development)	Yes	Ongoing funding of weatherization program for CDBG eligible households. BHCD has funded the Community Energy Project weatherization efforts.
44. Designate cost effective weatherization as a "minor code improvement" eligible for funding under city housing repair and renovation programs. (BHCD/PDC)	No	Not yet accomplished.
45. Develop strategy to ensure long-term energy efficiency of housing financed with public funds. (BHCD/PDC)	Yes	Establish of Green Building Policy and Principles "Greening Portland's Affordable Housing" (PDC) Also part of the City's Asset Management Guidelines.

Strategy (Suggested Implementers, when noted)	Considered?	Action
46. Explore options for implementing Community Land Trusts and other shared-equity homeowner models (BHCD/PDC)	Yes	Established the Portland Community Land Trust (PDC/BHCD)
47. Explore feasibility of public/private partnership to offer a "location-efficient" mortgage. (PDC/BHCD/PDOT)	Yes	<ul style="list-style-type: none"> • Still assessing LEM program. (PDC/BHCD) • Providing a wider range of homebuyer assistance tools that address some of the same hurdles to homeownership(PDC/BHCD)
48. Explore feasibility of setting a maximum house size in some residential zones. (BOP)	No	No such regulations have been adopted in the Zoning Code; However, funding assistance encourages "humble housing" and smaller rental units as appropriate in the area of the city targeted.
49. Encourage financial institutions, underwriters of loans and mortgages, and state housing agencies to identify and eliminate barriers in the real estate finance process that inhibit the development of modest homes. (PDC)	Yes	(See 48 above)
50. Provide information to the development community on needs and preferences of small households and/or low-income households. (BOP/PDC)	Yes	<ul style="list-style-type: none"> • Needs Assessments of Low Income households as part of the Consolidated Plan (HCDC/BHCD) • Demographic and needs analysis of many urban renewal areas (base data and trends reports) (PDC) • Various residents and workforce surveys as part of planning efforts (Central City Workforce Housing Report; North Macadam/OHSU planning) (PDC) • The Special Needs Committee work with the development community on needs and preferences of households of very low income persons with disabilities.
51. Discourage developer from stipulating minimum housing sizes in subdivision covenant, codes, and restrictions. (BOP)	No	Much of this governed by state and federal fair housing law.
52. Develop a strategy to preserve the existing stock (4021 units) of downtown's low-income housing units threatened by demolition, conversion or redevelopment. (PDC)	Yes	Establishment of the Central City No Net Loss policy and strategy and incorporation of preservation and replacement housing goals in Urban Renewal Area Housing Strategies (PDC)

Strategy (Suggested Implementers, when noted)	Considered?	Action
53. Re-examine the Downtown Housing Policy's goal of maintaining 5183 low-income units in the downtown (the number that existed in 1978) in light of current level and market conditions, e.g., expand from downtown to Central City; replace SRO with studio or larger units; set targets for replacement in mixed-income development. (PDC/BHCD)	Yes	Establishment of the Central City No Net Loss policy and strategy and incorporation of preservation and replacement housing goals in Urban Renewal Area Housing Strategies (PDC)
54. Develop financial tools to assist low-income households become owner of units converted to condominiums (BHCD/PDC)	Yes	Providing a wider range of homebuyer assistance tools (PDC/BHCD) through the Portland Community Land Trust and various low income homeownership readiness and down payment programs through the Portland Housing Center.
55. Develop permitting process incentive for housing being developed to serve people at or below 80 percent of areas median income (per Urban Growth Management Functional Plan)	Yes	Office of Development Services guarantee of ten day turn around for complete residential building permit applications.

SECTION SIX—New Initiatives

- In early 2002, Multnomah County, the City of Portland, and the Housing Authority of Portland charged the HCDC Special Needs Housing Committee with estimating the unmet need for housing linked to services for people with disabilities, and to make recommendations for meeting that need. The SNC issued a report in June, 2003, demonstrating a need for at least 8,000 additional units of housing linked to services. The report documents the over-representation of extremely low-income people with disabilities among the chronically homeless. The SNC Report had three key recommendations: (1) Coordinate housing + services to maximize success; (2) Create enough housing for people with special needs; and (3) Improve access to housing + services. The SNC report also contains specific strategies for accomplishing these goals.
- Multnomah County and the City of Portland have commenced a process to develop a Ten Year Plan to End Homelessness. A Citizens Commission on Homelessness has been convened and charged with developing the plan, with support from a Coordinating Committee that includes government staff as well as agency and provider representatives. The strategies to address chronic homelessness, episodic homelessness, and temporary or situational homelessness all are based on housing, and range from a supportive housing approach to short term flexible rent assistance.
- Multnomah County, Clackamas County, and Washington County are participating in a Blue Ribbon Commission for New Housing Resources. The goal of this Commission is to develop a winnable strategy for obtaining significant new resources for affordable housing.
- Multnomah County and Portland have successfully competed for more than \$10 million dollars in funding for systems change and affordable housing linked with services for people who are chronically homeless.
- The Housing Authority of Portland is working with its Project Based Section 8 Program to build the capacity of other community housing providers by assigning more than 550 rent assistance vouchers to their developments. This helps to serve the hardest-to-house, that, people who might not be successful in their tenant-based Section 8 program.

SECTION SEVEN—Selected Demographic and Housing Characteristics in Portland (2002 American Community Survey)

The most recent Census information comes from the 2002 American Community Survey (ACS). The ACS is an annual unduplicated sample of the population begun in 1996 by the U.S. Department of the Census as a supplemental update of the ten year Census. Multnomah County and its jurisdiction have been part of the ACS since its beginning.

Knowing the characteristics of the city population—its family makeup, age, level of education, ethnicity, employment status, and poverty level—is useful in understanding its housing needs. This report is not intended as an exhaustive demographic study, but simply offers some selected data describing Portland’s population. More extensive demographic and housing analysis is available in several local studies including the Consolidated Plan, the Portland Environmental Scan (aka *Portland Present*), reports from the Portland State Population Center, and Metro.

Population

The city’s population, within the Multnomah County boundary, stands at 520,326 (cf. Portland State University Population Center estimate of 545,140 as of July 2003) with a median age of 35.5 years. Approximately 24 percent of the total population is aged 1 through 19 years. This school aged population has been steadily declining during the last forty years. Approximately 11 percent of the population is 65 years or older. Interestingly, this age group declined as a group during the 1990s.

Education

A currently popular indicator of economic growth potential is the number of college educated young people between the ages of 25 to 34 years who choose to stay in or to migrate to the city. This total age group at 96,822 is the largest in the city. The Portland region ranks 20th among the largest metropolitan areas in the percentage of college educated young people among its metropolitan population. Nevertheless, the region’s unemployment rate has hovered between 7 and 8 percent, among the highest in the country. However, the region continues to attract a young educated population perhaps by virtue of a high quality of life and relatively affordable housing compared with other west coast cities.

Race and Ethnicity

In terms of racial and ethnic makeup, the city has seen a high growth rate in Hispanic and Asian households, a steady share of African-American households, and a small decline in the percentage of white households.

Household Characteristics

Households consisting of married couples with children represent a declining percentage (currently 36 percent of the city’s population) as average household size (2.33) continues to decline relative to the suburban population. The percentage of single person households is also 36 percent. The owner occupancy rate is 56 percent, an increasing rate compared to the prior forty years.

Employment

Among the employed civilian population 16 years or older, 41 percent are employed in management, professional and related occupations; 16 percent in service occupations; 26 percent in sales and office occupations; 7 percent in construction and related occupations; and 9 percent in production, transportation and related occupations.

Poverty

The poverty rate for all city residents has remained in the 13 to 14 percent range during the last twelve years. For children under 18 years old, the poverty rate slightly exceeds 15 percent during the prior twelve months.

Housing Units

The number of housing units in the city totals 239,804 of which 111,198 are units contained in structures built before 1950. Residential structures built before 1939 total 85,971 and constitute the largest block of housing by age in the city. 3,718 of all city housing units lack complete plumbing or kitchen facilities. 6,950 of all housing units would be classified as over crowded with more than one occupant per room. Portland residents are highly mobile as indicated by the 65 percent of householders who have lived in their housing only since 1995.

Housing Values

As of 2002, the reported median owner-occupied house value in Portland was \$168,999. The median rent was \$667 per month. Approximately 37 percent of owner occupied housing reported a value less than \$150,000. Nearly 400 owner occupied units reported a value of \$1,000,000 or more. Among rental units, approximately 60 percent report a monthly rent of less than \$750, which would be roughly affordable to a two person low income household earning 60 percent or less of the area median income.

Cost Burdens

In terms of cost burden, 40 percent of homeowners with a mortgage pay more than thirty percent of their household income for shelter costs. Fifty two percent of renters pay more than 30 percent of their household income for rent.

APPENDIX ONE—City Housing Programs and Financial Assistance: FY 1996-97 to FY 1999-00*

The following chart is the latest complete assessment of all housing funding undertaken by the City during FY 1996 through FY 2000. These figures do not include the resources of the Housing Authority of Portland. This report recommends continuation of this documentation on an annual basis.

Bureau	Programs	Financial Assistance (millions)
Portland Development Commission	▪ Housing Development Finance (loans and grants for new construction, refinance or rehab of multi-family housing)	\$64.5
	▪ Neighborhood Housing Program (loans and grants for single-family home purchases and rehabilitation)	\$13.6
	▪ PDC/BHCD Shelter Funding (shelters for homeless and transitional housing)	\$4.4
	▪ Portland Housing Center Loans (funds to PHC for homebuyer loan programs)	\$1.8
	▪ Sewer-on-Site Loans (0% interest loans for sanitary sewer hood-up)	\$0.3
	▪ Local Improvement District (LID) Grants (grants for homeowners to pay LID fees)	\$0.1
Bureau of Housing and Community Development	▪ Manages contracts for, and distributes to PDC, federal housing grant funds	See PDC Programs Above
	▪ Housing for People with AIDS (HOPWA)	\$2.3
	▪ HOME Special Needs Housing	\$1.9
	▪ Home Repair Training Program	\$1.4
	▪ Homeowner Repair Programs (3 programs)	\$0.3
Bureau of Planning Office of Planning and Development Review	▪ Property Tax Exemptions (6 programs)	\$5.9
	▪ Development Fee Waivers	\$1.2
Office of Transportation	▪ Transportation System Development Charge (SDC) Exemption	\$0.7
Parks and Recreation	▪ SDC Credit	\$0.5
	▪ Parks SDC Exemption	\$0.2
Auditor's Office	▪ Lien Waivers (on property transfers to community development corporations)	\$0.6
Environmental Services	▪ Sewer SDC Exemption	\$0.3
TOTAL		\$100 Million

*Adapted from Figure 6, *A Review of the Efforts and Accomplishments of City Housing Programs: 1996-2000*, May 2002, Office of the City Auditor, Portland, Oregon

APPENDIX TWO –Text of Metro’s Affordable Housing Requirements

TITLE 7: AFFORDABLE HOUSING

3.07.710 Intent

The Regional Framework Plan stated the need to provide affordable housing opportunities through: a) a diverse range of housing types, available within the region, and within cities and counties inside Metro's Urban Growth Boundary; b) sufficient and affordable housing opportunities available to households of all income levels that live or have a member working in each jurisdiction and subregion; c) an appropriate balance of jobs and housing of all types within subregions; d) addressing current and future need for and supply of affordable housing in the process used to determine affordable housing production goals; and e) minimizing any concentration of poverty. The Regional Framework Plan directs that Metro’s Urban Growth Management Functional Plan include voluntary affordable housing production goals to be adopted by local jurisdictions in the region as well as land use and non-land use affordable housing tools and strategies. The Regional Framework Plan also directs that Metro’s Urban Growth Management Functional Plan include local governments’ reporting progress towards increasing the supply of affordable housing.

Title 1 of this functional plan requires cities and counties to change their zoning to accommodate development at higher densities in locations supportive of the transportation system. Increasing allowable densities and requiring minimum densities encourage compact communities, more efficient use of land and should result in additional affordable housing opportunities. These Title 1 requirements are parts of the regional affordable housing strategy.

3.07.720 Voluntary Affordable Housing Production Goals

Each city and county within the Metro region should adopt the Affordable Housing Production Goal indicated in Table 3.07-7 for their city or county as a guide to measure progress toward meeting the affordable housing needs of households with incomes between 0% and 50% of the regional median family income.

3.07.730 Requirements for Comprehensive Plan and Implementing Ordinance Changes

A. Cities and counties within the Metro region shall ensure that their comprehensive plans and implementing ordinances:

1. Include strategies to ensure a diverse range of housing types within their jurisdictional boundaries.
2. Include in their plans actions and implementation measures designed to maintain the existing supply of affordable housing as well as increase the opportunities for new dispersed affordable housing within their boundaries.
3. Include plan policies, actions, and implementation measures aimed at increasing opportunities for households of all income levels to live within their individual jurisdictions in affordable housing.

B. Cities and counties within the Metro region shall consider amendment of their comprehensive plans and implementing ordinances with the following affordable housing land use tools and strategies identified below. Compliance with this subsection is achieved when the governing body of a city or county considers each tool or strategy in this subsection and either amends its

comprehensive plan and implementing ordinances to adopt the tool or strategy or explains in writing why it has decided not to adopt it.

1. Density Bonus. A density bonus is an incentive to facilitate the development of affordable housing. Local jurisdictions could consider tying the amount of bonus to the targeted income group to encourage the development of affordable units to meet affordable housing production goals.

2. Replacement Housing. No-Net-Loss housing policies for local jurisdictional review of requested quasi-judicial Comprehensive Plan Map amendments with approval criteria that would require the replacement of existing housing that would be lost through the Plan Map amendment.

3. Inclusionary Housing.

a. Implement voluntary inclusionary housing programs tied to the provision of incentives such as Density Bonus incentives to facilitate the development of affordable housing.

b. Develop housing design requirements for housing components such as single-car garages and maximum square footage that tend to result in affordable housing.

c. Consider impacts on affordable housing as a criterion for any legislative or quasi-judicial zone change.

4. Transfer of Development Rights.

a. Implement TDR programs tailored to the specific conditions of a local jurisdiction.

b. Implement TDR programs in Main Street or Town Center areas that involve upzoning.

5. Elderly and People with Disabilities. Examine zoning codes for conflicts in meeting locational needs of these populations.

6. Local Regulatory Constraints; Discrepancies in Planning and Zoning Codes; Local Permitting or Approval Process.

a. Revise the permitting process (conditional use permits, etc.).

b. Review development and design standards for impact on affordable housing.

c. Consider using a cost/benefit analysis to determine impact of new regulations on housing production.

d. Regularly review existing codes for usefulness and conflicts.

e. Reduce number of land use appeal opportunities.

f. Allow fast tracking of affordable housing.

7. Parking.

a. Review parking requirements to ensure they meet the needs of residents of all types of housing.

b. Coordinate strategies with developers, transportation planners and other regional efforts so as to reduce the cost of providing parking in affordable housing developments.

3.07.750 Metro Assessment of Progress

A. Metro Council and MPAC shall review progress reports submitted by cities and counties and may provide comments to the jurisdictions.

B. Metro Council shall:

1. In 2003, estimate 2000 baseline affordable housing units affordable to defined income groups (less than 30 percent, 31-50 percent, 51-80 percent of the region's median family income) using 2000 U.S. Census data;

2. By December, 2004, formally assess the region's progress made in 2001-2003 to achieve the affordable housing production goals in Table 3.07-7;

3. By December, 2004, review and assess affordable housing tools and strategies implemented by local governments and other public and private entities;

4. By December, 2004, examine federal and state legislative changes;
5. By December, 2004, review the availability of a regional funding source;
6. By December, 2004, update the estimate of the region's affordable housing need; and
7. By December, 2004, in consultation with MPAC, create an ad hoc affordable housing task force with representatives of MPAC, MTAC, homebuilders, affordable housing providers, advocate groups, financial institutions, citizens, local governments, state government, and U.S. Housing and Urban Development Department to use the assessment reports and census data to recommend by December, 2005, any studies or any changes that are warranted to the existing process, tools and strategies, funding plans or goals to ensure that significant progress is made toward providing affordable housing for those most in need.

3.07.760 Recommendations to Implement Other Affordable Housing Strategies

A. Local jurisdictions are encouraged to consider implementation of the following affordable housing land use tools to increase the inventory of affordable housing throughout the region. Additional information on these strategies and other land use strategies that could be considered by local jurisdictions are described in Chapter Four of the Regional Affordable Housing Strategy and its Appendixes.

1. Replacement Housing. Consider policies to prevent the loss of affordable housing through demolition in urban renewal areas by implementing a replacement housing ordinance specific to urban renewal zones.

2. Inclusionary Housing. When creating urban renewal districts that include housing, include voluntary inclusionary housing requirements where appropriate.

B. Local jurisdictions are encouraged to analyze, adopt and apply locally-appropriate non-land use tools, including fee waivers or funding incentives as a means to make progress toward the Affordable Housing Production Goal. Non-land use tools and strategies that could be considered by local jurisdictions are described in Chapter Four of the Regional Affordable Housing Strategy and its Appendixes. Cities and Counties are also encouraged to report on the analysis, adoption and application of non-land use tools at the same intervals that they are reporting on land-use tools (in Section 3.07.740).

C. Local jurisdictions are also encouraged to continue their efforts to promote housing affordable to other households with incomes 50% to 80% and 80% to 120% of the regional median household income.

D. Local jurisdictions are encouraged to consider joint coordination or action to meet their combined affordable housing production goals.

Mr. David Bragdon, Metro President
600 NE Grand Ave.,
Portland, OR 97232-2736

copy

012904c-06
Pavel Goberman
Candidate for US Senate,
"Pavel Goberman For US Constitution",
P.O. Box 1664
Beaverton, OR 97075
(503)643-8348
www.getenergized.com
getfit@getenergized.com allbefit@aol.com

COMPLAINT: REQUEST FOR INVESTIGATION AND STOP FUNDING. 01/13/04

Mr Bragdon, till today I didn't know the duties and obligations of the Metro.

I'm writing to you about Metro's "...prioritizes and allocates federal and state transportation funds..." to TRI-MET, which did discrimination, retaliation against me, did fraud, felony, conspiracy, violated my civil and human rights and unlawfully terminated me, violating the Constitution of the USA.

BOLI and EEOC didn't investigate my Complaints.

US District Court Judge Panner dismissed TRI-MET's "Final Report", on base of which I was terminated, as a fraud, fabricated by TRI-MET's lawyers and was without signatures of investigators. So, why I was discriminated and fired? Why my civil and human rights were violated? TRI-MET has no case against me in my termination, but still is on federal funding. It is support criminal actions of TRI-MET for federal crimes, it is a violation of the US Constitution.

My Complaints to "my" US Senators Wyden, G. Smith, Congressman Wu, TRI-MET's Board of Directors and G.M.of TRI-MET F. Hansen left without any reply. It is a violation of the Constitution of the USA T 5 USC Section 2302, violation own Oath of Office, Pledge to the Flag and Code of Ethics.

The punishment to all of these political prostitutes, garbage, dreg of our society must be a prison term. I'm asking you, Metro President Bragdon, to investigate crimes of TRI-MET and stop funding till the justice will serve.

Also my Complaint against Washington County Transportation Department for discrimination against me in hiring. Metro must investigate violation of my civil and human rights by Washington County and stop funding this transportation department for violation of US Constitution.

I many times spoke before Washington County Commissioners, but they are supporting crimes own employees.



Pavel Goberman

Metro Council
600 NE Grand Ave.
Portland, OR 97232-2736

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PROPOSAL / OFFER

01/19/04

There is nothing more important than being fit and healthy. It cost too much to be sick and old.

The businesses of the health care, assisted living, nursing homes, mortuaries are booming because our nation is concentrating on treatment of the medical problems, but not on prevention. But Prevention, Not Cure Is The Key!

I developed and opened the innovative, unique method of physical and mental fitness program "Get Energized!" – the exercise system. No one else but me is talking about producing microelectricity in the body which may prevent injuries, headaches, back pain, ergonomic and many other illnesses, diseases (kill the cancer cells), slow down the aging process.

Very often people have no time to exercise, no motivation, do not like to exercise alone, and most of us aren't disciplined exercisers, do not think about future.

I'm offering 5-min workout, M-F, for unlimited groups of your employees, any age, any shape at your worksite at established time. There is no need for a change of clothing, no need for a special space.

The benefits of this fitness program are great for employees and employer and worth many thousands of dollars.

I also can organize special classes for who have breast cancer on the early stage and who are in high risk. I promise to save your organization up to 40% on medical spending.

NO OBLIGATION, MONTH BY MONTH. THIS PROGRAM IS A FUN.

I challenge any fitness / nutrition gurus, organizations and any fitness clubs in approach to fitness and benefits to the people and organizations.

I also challenge any doctor: USE FITNESS FIRST AND DOCTORS SECOND.

I'm looking forward to do business with Metro and **promote Metro national wide.**

Pavel Goberman



M E M O R A N D U M

600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736
TEL 503 797 1530 | FAX 503 797 1792



METRO

DATE: January 29, 2004

TO: David Bragdon, Council President
Metro Council

FROM: Dick Benner, Senior Attorney
Office of Metro Attorney

RE: *Remedies for Non-Compliance with Functional Plan*

Title 8 (Compliance Procedures) of the Urban Growth Management Functional Plan provides a number of possible remedies for non-compliance by a city or county with a requirement of the functional plan. I will describe each briefly and tell you where you can find it in Title 8.

1. Extension for Compliance

Title 8 establishes a process and criteria for a local government to seek more time for compliance. The Council can place conditions on an extension. The Council cannot grant more than two extensions for a particular instance of non-compliance. See 3.07.850.

2. Exception from Compliance

Title 8 also establishes a process and criteria for a local government to seek exemption from a functional plan requirement. There is a specific window in March for requests for exceptions to the housing and employment capacities in Title 1. As with extensions, the Council can place conditions on an exception. See 3.07.860.

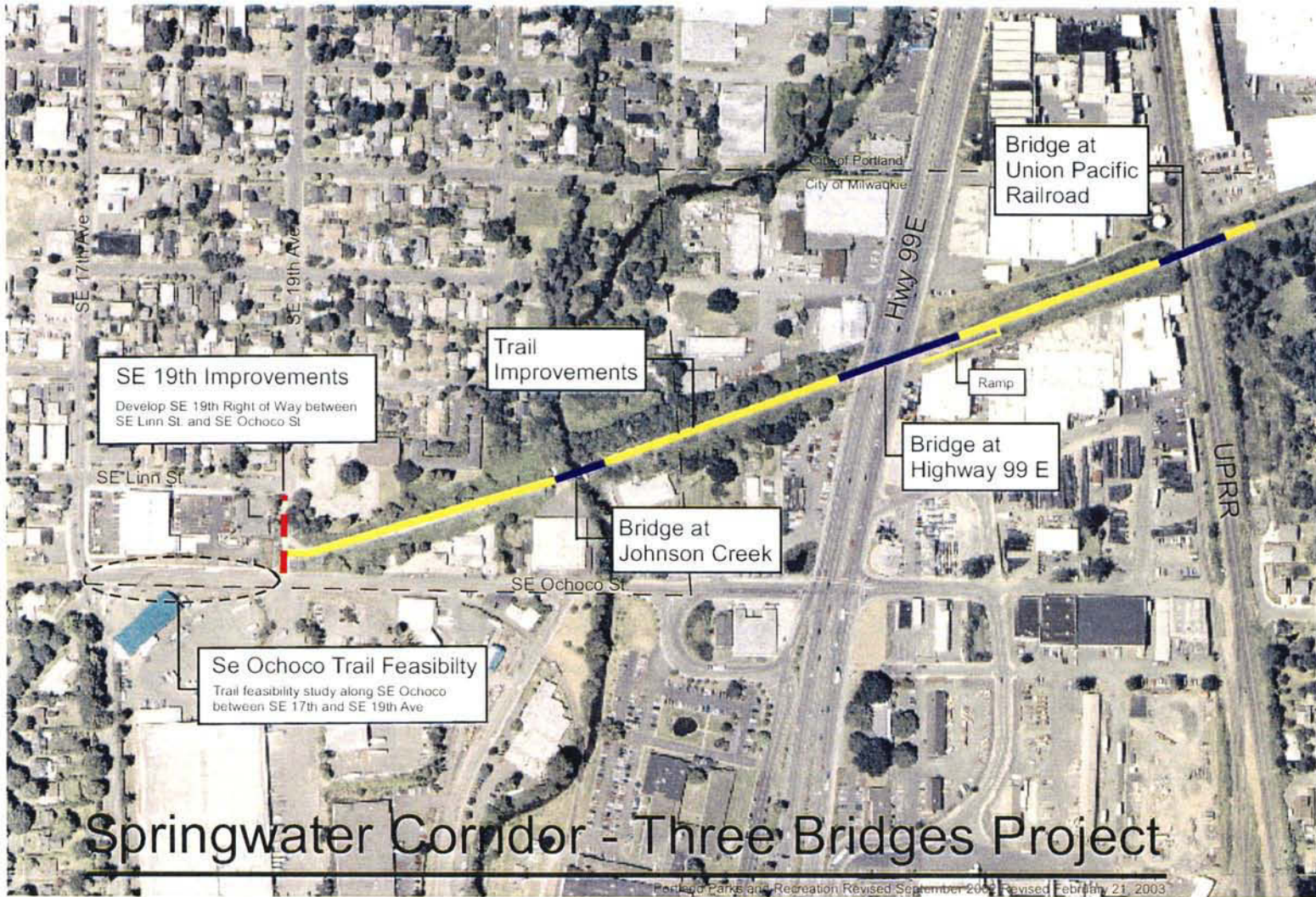
3. Review of Non-compliance by MPAC

Title 8 provides that a city or county may seek review by the Metropolitan Policy Advisory Committee ("MPAC") of a Chief Operating Officer conclusion that it does not comply with a functional plan requirement. MPAC may hold a hearing on the matter, if it chooses. MPAC prepares a report for consideration by the Council. The Council holds a hearing on the matter, considers the MPAC report, and makes its decision. Remedies include extension, exception, amendment of the functional plan requirement, or enforcement. See 3.07.820 to 3.07.840.

4. Enforcement of Functional Plan Requirement

Title 8 establishes a process for Council enforcement of functional plan requirements following a hearing before the Council on the matter. Enforcement is initiated by the Council, which may be requested by the Chief Operating Officer (“COO”) or a citizen. If the Council begins enforcement, the COO prepares a report prior to the hearing. If, after the hearing, the Council concludes that there has been non-compliance, it enters an order that directs changes in the city or county ordinance to correct the non-compliance. If necessary, the Council may seek enforcement of its order in the appropriate circuit court. See 3.07.870 and 3.07.890.

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PORTLAND

Pedestrian-bike bridges will close Springwater gaps

The spans, set to be finished in 2006, will be part of a trail that will eventually run from OMSI to Gresham

By **WADE NKRUMAH**
THE OREGONIAN

Three new pedestrian-bicycle bridges will provide function by closing gaps in the Springwater Trail, as well as give form to the Portland-Milwaukie boundary with a new bridge crossing over Southeast McLoughlin Boulevard.

The Three Bridges Project will open a range of possibilities, said Bob Schmidt, president of the Sellwood-Moreland Improvement League neighborhood association.

"This is a great connection piece for the Springwater Trail," he said. "It's great to get a crossing across McLoughlin Boulevard. ... I think it'll open up the east side for bike commuting tremendously."

Because of funding limits, the new bridges, whose final designs were recently selected, are not as wide as some advocates and Springwater Corridor users had hoped. However, most involved in the design process seem to agree that the bridges will be attractive and that the middle bridge over McLoughlin, in particular, will give Springwater a higher profile.

Scott Combs, a Southwest Portland resident and member of a city

pedestrian committee, said the project design succeeds in "making a statement as the trail crosses McLoughlin Boulevard but doing it in a way that structurally has integrity for the bridge."

"So it's functional, and yet it will be a landmark along McLoughlin."

The long-awaited \$4.69 million project is a joint effort of Portland, Milwaukie and Metro, the Portland area's regional government. It will help fulfill the dream of a continuous 19-mile trail that starts at the Oregon Museum of Science and Industry, extends through Oaks Bottom and then crosses McLoughlin to link with a former rail corridor that runs east to Gresham.

Each of the bridges will have 12-foot-wide paths. They will span Johnson Creek, McLoughlin and a railroad line.

The bridge connections will eliminate an inconvenient detour through Portland's Sellwood neighborhood and part of Milwaukie.

Construction is scheduled to begin next fall, with completion in spring 2006. Though all three bridges will become familiar to Springwater users, the bridge over McLoughlin will be the most visible of the three.

Bridge images and color options can be viewed on the Portland Parks and Recreation Web site at www.parks.ci.portland.or.us/planning/springwater3bridges.htm

THREE BRIDGES PROJECT

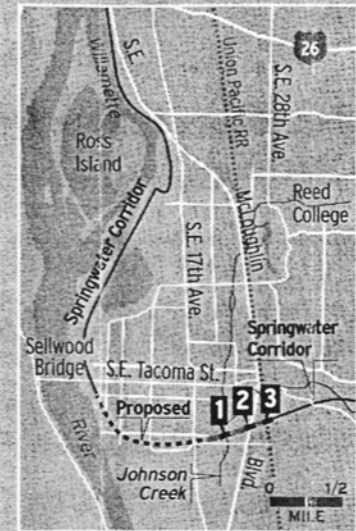
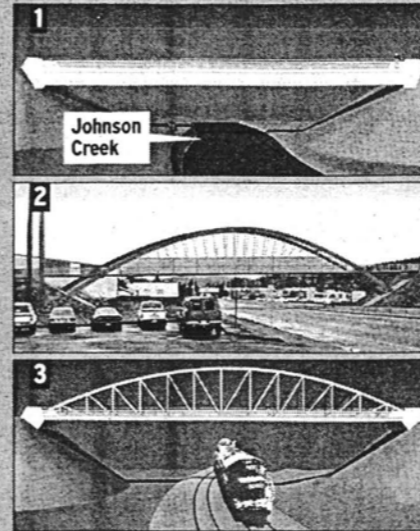
Efforts to connect the 19-mile Springwater Corridor in its entirety will progress with construction of a segment to build bridges over:

1. Johnson Creek
2. Southeast McLoughlin Boulevard
3. a railroad line

Construction is scheduled to begin in fall 2004, with completion targeted for spring 2006.

Springwater extends from inner Southeast Portland south along the Willamette River and east to Gresham.

Source: Portland Parks & Recreation



PAT MCLELLAND/THE OREGONIAN

The Springwater Trail accommodates bicyclists, joggers and walkers. There are views of Mount Hood in places. Eventually, the Springwater Trail, which has been built in stages over many years as money has become available for property acquisition and rights-of-way negotiations, will push past Boring to Estacada.

George Lozovoy, a landscape architect and project manager for Portland Parks and Recreation, said the next step will be to address construction-related traffic concerns.

He said a plan with proposed routes is being prepared for public

review, which will occur after a contractor has been selected. He said requests for project construction bids are scheduled for September.

"Everybody's pretty comfortable with what we're doing," Lozovoy said.

Combs, an architect and regular Springwater user, has been involved in public oversight of the project, which has centered largely on a group of more than 20 people representing business, bicyclists, environmental concerns, neighborhoods and pedestrians.

He thinks the bridge project will work well for pedestrians but la-

ments that there is money to build only a ramp down to McLoughlin Boulevard at the east end of the McLoughlin Bridge site. Combs would like stairs, which he thinks would be more convenient for those who are not physically disabled.

Lozovoy said finding about \$55,000 to add stairs is possible "if we get a good cost" on construction bids.

Ron Kernan, a Northeast Portland resident and member of the city's bicycle advisory committee, said he would prefer 14-foot-wide bridges.

Still, he's grateful for the proj-

ect, saying that securing funding "was a coup."

Lozovoy said building three bridges with 14-foot-wide paths would increase costs by \$680,000.

"That was everybody's preferred alternative," he said. "Because all our trails, once we build them, they always seem that they aren't wide enough to accommodate the traffic. Wider's better."

Last fall's opening of the Springwater on the Willamette segment of the trail provided a connection that extends from just south of OMSI through Oaks Bottom into Sellwood.

Still unfunded is what's known as the Sellwood Gap, stretching southeast in a crescent from Southeast Umatilla Street and Grand Avenue to 19th Avenue.

The Three Bridges Project will close another gap. Its middle bridge, which will cross heavily traveled McLoughlin Boulevard, is a "signature bridge" for Sherri Campbell, vice president of the Ardenwald/Johnson Creek Neighborhood Association, which represents parts of Portland and Milwaukie.

"We'd like to see it be a nice neighborhood entrance," Campbell said. "Our neighborhood is sort of the entrance to Milwaukie."

Wade Nkrumah: 503-294-7627; wadenkrumah@news.oregonian.com

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012904c-10

M E M O R A N D U M



METRO

To: Metro Council President Bragdon
From: Andy Cotugno, Planning Director
Date: January 27, 2004

Subject: Additional Title 7 (Affordable Housing) Compliance Reports Submitted by Jurisdictions

The 2003 Annual Urban Growth Management Functional Plan Compliance Report submitted to the Metro Council on December 16, 2003 includes the Title 7 (Affordable Housing) Compliance. The Title 7 section is an evaluation of local jurisdictions' first year (2002) and second year (2003) progress reports. Since then, Metro has received four additional Title 7 progress reports that met the deadline (December 31, 2003) for jurisdictions to submit the second year report.

The four reports were properly considered and approved by the respective city councils, thus meeting Metro's requirement that the governing body of a city or county considers the affordable housing tools and strategies. Staff will evaluate these reports along with any others that may be submitted after the reporting deadline. Staff will present the evaluation to the Metro Council later in spring 2004. Following are the jurisdictions that submitted the reports.

	Jurisdiction	Year of Report Submitted	Date Submitted
1	Beaverton	Second Year (2003)	Dec. 2003
2	Lake Oswego	Second Year (2003)	Dec. 2003
3	Maywood Park	First Year (2002) and Second Year (2003)	Jan. 2004
4	Portland	Second Year (2003)	Dec. 2003